

2 **ESB 5692** - H COMM AMD **Adopted March 7, 2002**
3 By Committee on Appropriations

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Court" when used without further qualification means the
10 district court under chapter 3.30 RCW, the municipal department under
11 chapter 3.46 RCW, or the municipal court under chapter 3.50 or 35.20
12 RCW.

13 (2) "Traffic infraction" means those acts defined as traffic
14 infractions by RCW 46.63.020.

15 (3) "Youth court" means an alternative method of hearing and
16 disposing of traffic infractions for juveniles age sixteen or
17 seventeen.

18 NEW SECTION. **Sec. 2.** (1) A court created under chapter 3.30,
19 3.46, 3.50, or 35.20 RCW may create a youth court. The youth court
20 shall have jurisdiction over traffic infractions alleged to have been
21 committed by juveniles age sixteen or seventeen. The court may refer
22 a juvenile to the youth court upon request of any party or upon its own
23 motion. However, a juvenile shall not be required under this section
24 to have his or her traffic infraction referred to or disposed of by a
25 youth court.

26 (2) To be referred to a youth court, a juvenile:

27 (a) May not have had a prior traffic infraction referred to a youth
28 court;

29 (b) May not be under the jurisdiction of any court for a violation
30 of any provision of Title 46 RCW;

31 (c) May not have any convictions for a violation of any provision
32 of Title 46 RCW; and

33 (d) Must acknowledge that there is a high likelihood that he or she
34 would be found to have committed the traffic infraction.

1 NEW SECTION. **Sec. 3.** (1) A youth court agreement shall be a
2 contract between a juvenile accused of a traffic infraction and a court
3 whereby the juvenile agrees to fulfill certain conditions imposed by a
4 youth court in lieu of a determination that a traffic infraction
5 occurred. Such agreements may be entered into only after the law
6 enforcement authority has determined that probable cause exists to
7 believe that a traffic infraction has been committed and that the
8 juvenile committed it. A youth court agreement shall be reduced to
9 writing and signed by the court and the youth accepting the terms of
10 the agreement. Such agreements shall be entered into as expeditiously
11 as possible.

12 (2) Conditions imposed on a juvenile by a youth court shall be
13 limited to one or more of the following:

14 (a) Community service not to exceed one hundred fifty hours, not to
15 be performed during school hours if the juvenile is attending school;

16 (b) Attendance at defensive driving school or driver improvement
17 education classes or, in the discretion of the court, a like means of
18 fulfilling this condition. The state shall not be liable for costs
19 resulting from the youth court or the conditions imposed upon the
20 juvenile by the youth court;

21 (c) A monetary penalty, not to exceed one hundred dollars. All
22 monetary penalties assessed and collected under this section shall be
23 deposited and distributed in the same manner as costs, fines,
24 forfeitures, and penalties are assessed and collected under RCW
25 2.68.040, 3.46.120, 3.50.100, 3.62.020, 3.62.040, 35.20.220, and
26 46.63.110(6), regardless of the juvenile's successful or unsuccessful
27 completion of the youth court agreement;

28 (d) Requirements to remain during specified hours at home, school,
29 or work, and restrictions on leaving or entering specified geographical
30 areas;

31 (e) Participating in law-related education classes;

32 (f) Providing periodic reports to the youth court or the court;

33 (g) Participating in mentoring programs;

34 (h) Serving as a participant in future youth court proceedings;

35 (i) Writing apology letters; or

36 (j) Writing essays.

37 (3) Youth courts may require that the youth pay any costs
38 associated with conditions imposed upon the youth by the youth court.

1 (a) A youth court disposition shall be completed within one hundred
2 eighty days from the date of referral.

3 (b) The court, as specified in section 2 of this act, shall monitor
4 the successful or unsuccessful completion of the disposition.

5 (4) A youth court agreement may extend beyond the eighteenth
6 birthday of the youth.

7 (5) Any juvenile who is, or may be, referred to a youth court shall
8 be afforded due process in all contacts with the youth court regardless
9 of whether the juvenile is accepted by the youth court or whether the
10 youth court program is successfully completed. Such due process shall
11 include, but not be limited to, the following:

12 (a) A written agreement shall be executed stating all conditions in
13 clearly understandable language and the action that will be taken by
14 the court upon successful or unsuccessful completion of the agreement;

15 (b) Violation of the terms of the agreement shall be the only
16 grounds for termination.

17 (6) The youth court shall, subject to available funds, be
18 responsible for providing interpreters when juveniles need interpreters
19 to effectively communicate during youth court hearings or negotiations.

20 (7) The court shall be responsible for advising a juvenile of his
21 or her rights as provided in this chapter.

22 (8) When a juvenile enters into a youth court agreement, the court
23 may receive only the following information for dispositional purposes:

24 (a) The fact that a traffic infraction was alleged to have been
25 committed;

26 (b) The fact that a youth court agreement was entered into;

27 (c) The juvenile's obligations under such agreement;

28 (d) Whether the juvenile performed his or her obligations under
29 such agreement; and

30 (e) The facts of the alleged traffic infraction.

31 (9) A court may refuse to enter into a youth court agreement with
32 a juvenile. When a court refuses to enter a youth court agreement with
33 a juvenile, it shall set the matter for hearing in accordance with all
34 applicable court rules and statutory provisions governing the hearing
35 and disposition of traffic infractions.

36 (10) If a monetary penalty required by a youth court agreement
37 cannot reasonably be paid due to a lack of financial resources of the
38 youth, the court may convert any or all of the monetary penalty into
39 community service. The modification of the youth court agreement shall

1 be in writing and signed by the juvenile and the court. The number of
2 hours of community service in lieu of a monetary penalty shall be
3 converted at the rate of the prevailing state minimum wage per hour.

4 NEW SECTION. **Sec. 4.** Youth courts provide a disposition method
5 for cases involving juveniles alleged to have committed traffic
6 infractions, in which participants, under the supervision of the court,
7 may serve in various capacities within the youth court, acting in the
8 role of jurors, lawyers, bailiffs, clerks, and judges. Youth courts
9 have no jurisdiction except as provided for in this chapter. Youth
10 courts are not courts established under Article IV of the state
11 Constitution.

12 NEW SECTION. **Sec. 5.** The administrative office of the courts
13 shall encourage the courts to work with cities, counties, and schools
14 to implement, expand, or use youth court programs for juveniles who
15 commit traffic infractions. Program operations of youth court programs
16 may be funded by government and private grants. Youth court programs
17 are limited to those that:

18 (1) Are developed using the guidelines for creating and operating
19 youth court programs developed by nationally recognized experts in
20 youth court projects;

21 (2) Target youth ages sixteen and seventeen who are alleged to have
22 committed a traffic infraction; and

23 (3) Emphasize the following principles:

24 (a) Youth must be held accountable for their problem behavior;

25 (b) Youth must be educated about the impact their actions have on
26 themselves and others including their victims, their families, and
27 their community;

28 (c) Youth must develop skills to resolve problems with their peers
29 more effectively; and

30 (d) Youth should be provided a meaningful forum to practice and
31 enhance newly developed skills.

32 NEW SECTION. **Sec. 6.** A court may require that a youth pay a
33 nonrefundable fee, not exceeding thirty dollars, to cover the costs of
34 administering the program. The fee may be reduced or waived for a
35 participant. Fees shall be paid to and accounted for by the court.
36 The fees collected under this section shall not constitute "certain

1 costs" as defined in RCW 3.46.120(2), 3.50.100(2), 3.62.020(2),
2 3.62.040(2), and 35.20.220(2).

3 **Sec. 7.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to read
4 as follows:

5 For the purposes of this chapter:

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

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

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

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

20 (3) "Community service" means compulsory service, without
21 compensation, performed for the benefit of the community by the
22 offender as punishment for committing an offense. Community service
23 may be performed through public or private organizations or through
24 work crews;

25 (4) "Community supervision" means an order of disposition by the
26 court of an adjudicated youth not committed to the department or an
27 order granting a deferred disposition. A community supervision order
28 for a single offense may be for a period of up to two years for a sex
29 offense as defined by RCW 9.94A.030 and up to one year for other
30 offenses. As a mandatory condition of any term of community
31 supervision, the court shall order the juvenile to refrain from
32 committing new offenses. As a mandatory condition of community
33 supervision, the court shall order the juvenile to comply with the
34 mandatory school attendance provisions of chapter 28A.225 RCW and to
35 inform the school of the existence of this requirement. Community
36 supervision is an individualized program comprised of one or more of
37 the following:

38 (a) Community-based sanctions;

1 (b) Community-based rehabilitation;

2 (c) Monitoring and reporting requirements;

3 (d) Posting of a probation bond;

4 (5) "Confinement" means physical custody by the department of
5 social and health services in a facility operated by or pursuant to a
6 contract with the state, or physical custody in a detention facility
7 operated by or pursuant to a contract with any county. The county may
8 operate or contract with vendors to operate county detention
9 facilities. The department may operate or contract to operate
10 detention facilities for juveniles committed to the department.
11 Pretrial confinement or confinement of less than thirty-one days
12 imposed as part of a disposition or modification order may be served
13 consecutively or intermittently, in the discretion of the court;

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

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

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

22 (b) The criminal complaint was diverted by a prosecutor pursuant to
23 the provisions of this chapter on agreement of the respondent and after
24 an advisement to the respondent that the criminal complaint would be
25 considered as part of the respondent's criminal history. A
26 successfully completed deferred adjudication that was entered before
27 July 1, 1998, or a deferred disposition shall not be considered part of
28 the respondent's criminal history;

29 (8) "Department" means the department of social and health
30 services;

31 (9) "Detention facility" means a county facility, paid for by the
32 county, for the physical confinement of a juvenile alleged to have
33 committed an offense or an adjudicated offender subject to a
34 disposition or modification order. "Detention facility" includes
35 county group homes, inpatient substance abuse programs, juvenile basic
36 training camps, and electronic monitoring;

37 (10) "Diversion unit" means any probation counselor who enters into
38 a diversion agreement with an alleged youthful offender, or any other
39 person, community accountability board, youth court under the

1 supervision of the juvenile court, or other entity except a law
2 enforcement official or entity, with whom the juvenile court
3 administrator has contracted to arrange and supervise such agreements
4 pursuant to RCW 13.40.080, or any person, community accountability
5 board, or other entity specially funded by the legislature to arrange
6 and supervise diversion agreements in accordance with the requirements
7 of this chapter. For purposes of this subsection, "community
8 accountability board" means a board comprised of members of the local
9 community in which the juvenile offender resides. The superior court
10 shall appoint the members. The boards shall consist of at least three
11 and not more than seven members. If possible, the board should include
12 a variety of representatives from the community, such as a law
13 enforcement officer, teacher or school administrator, high school
14 student, parent, and business owner, and should represent the cultural
15 diversity of the local community;

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

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

21 (13) "Intensive supervision program" means a parole program that
22 requires intensive supervision and monitoring, offers an array of
23 individualized treatment and transitional services, and emphasizes
24 community involvement and support in order to reduce the likelihood a
25 juvenile offender will commit further offenses;

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

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

34 (16) "Local sanctions" means one or more of the following: (a)
35 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
36 0-150 hours of community service; or (d) \$0-\$500 fine;

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

1 (18) "Monitoring and reporting requirements" means one or more of
2 the following: Curfews; requirements to remain at home, school, work,
3 or court-ordered treatment programs during specified hours;
4 restrictions from leaving or entering specified geographical areas;
5 requirements to report to the probation officer as directed and to
6 remain under the probation officer's supervision; and other conditions
7 or limitations as the court may require which may not include
8 confinement;

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

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

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

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

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

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

1 (25) "Sex offense" means an offense defined as a sex offense in RCW
2 9.94A.030;

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

6 (27) "Surety" means an entity licensed under state insurance laws
7 or by the state department of licensing, to write corporate, property,
8 or probation bonds within the state, and justified and approved by the
9 superior court of the county having jurisdiction of the case;

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

13 (29) "Violent offense" means a violent offense as defined in RCW
14 9.94A.030.

15 (30) "Youth court" means a diversion unit under the supervision of
16 the juvenile court.

17 **Sec. 8.** RCW 13.40.080 and 1999 c 91 s 1 are each amended to read
18 as follows:

19 (1) A diversion agreement shall be a contract between a juvenile
20 accused of an offense and a (~~diversionary~~) diversion unit whereby the
21 juvenile agrees to fulfill certain conditions in lieu of prosecution.
22 Such agreements may be entered into only after the prosecutor, or
23 probation counselor pursuant to this chapter, has determined that
24 probable cause exists to believe that a crime has been committed and
25 that the juvenile committed it. Such agreements shall be entered into
26 as expeditiously as possible.

27 (2) A diversion agreement shall be limited to one or more of the
28 following:

29 (a) Community service not to exceed one hundred fifty hours, not to
30 be performed during school hours if the juvenile is attending school;

31 (b) Restitution limited to the amount of actual loss incurred by
32 (~~the~~) any victim;

33 (c) Attendance at up to ten hours of counseling and/or up to twenty
34 hours of educational or informational sessions at a community agency.
35 The educational or informational sessions may include sessions relating
36 to respect for self, others, and authority; victim awareness;
37 accountability; self-worth; responsibility; work ethics; good
38 citizenship; literacy; and life skills. For purposes of this section,

1 "community agency" may also mean a community-based nonprofit
2 organization, if approved by the diversion unit. The state shall not
3 be liable for costs resulting from the ((diversionary)) diversion unit
4 exercising the option to permit diversion agreements to mandate
5 attendance at up to ten hours of counseling and/or up to twenty hours
6 of educational or informational sessions;

7 (d) A fine, not to exceed one hundred dollars(~~(. In determining~~
8 ~~the amount of the fine, the diversion unit shall consider only the~~
9 ~~juvenile's financial resources and whether the juvenile has the means~~
10 ~~to pay the fine. The diversion unit shall not consider the financial~~
11 ~~resources of the juvenile's parents, guardian, or custodian in~~
12 ~~determining the fine to be imposed))~~);

13 (e) Requirements to remain during specified hours at home, school,
14 or work, and restrictions on leaving or entering specified geographical
15 areas; and

16 (f) Upon request of ((the)) any victim or witness, requirements to
17 refrain from any contact with victims or witnesses of offenses
18 committed by the juvenile.

19 (3) Notwithstanding the provisions of subsection (2) of this
20 section, youth courts are not limited to the conditions imposed by
21 subsection (2) of this section in imposing sanctions on juveniles
22 pursuant to section 14 of this act.

23 (4) In assessing periods of community service to be performed and
24 restitution to be paid by a juvenile who has entered into a diversion
25 agreement, the court officer to whom this task is assigned shall
26 consult with the juvenile's custodial parent or parents or guardian and
27 victims who have contacted the ((diversionary)) diversion unit and, to
28 the extent possible, involve members of the community. Such members of
29 the community shall meet with the juvenile and advise the court officer
30 as to the terms of the diversion agreement and shall supervise the
31 juvenile in carrying out its terms.

32 ((+4)) (5)(a) A diversion agreement may not exceed a period of six
33 months and may include a period extending beyond the eighteenth
34 birthday of the divertee.

35 (b) If additional time is necessary for the juvenile to complete
36 restitution to ((the)) a victim, the time period limitations of this
37 subsection may be extended by an additional six months.

38 (c) If the juvenile has not paid the full amount of restitution by
39 the end of the additional six-month period, then the juvenile shall be

1 referred to the juvenile court for entry of an order establishing the
2 amount of restitution still owed to the victim. In this order, the
3 court shall also determine the terms and conditions of the restitution,
4 including a payment plan extending up to ten years if the court
5 determines that the juvenile does not have the means to make full
6 restitution over a shorter period. For the purposes of this subsection
7 (~~((+4))~~) (5)(c), the juvenile shall remain under the court's
8 jurisdiction for a maximum term of ten years after the juvenile's
9 eighteenth birthday. Prior to the expiration of the initial ten-year
10 period, the juvenile court may extend the judgment for restitution an
11 additional ten years. The court may not require the juvenile to pay
12 full or partial restitution if the juvenile reasonably satisfies the
13 court that he or she does not have the means to make full or partial
14 restitution and could not reasonably acquire the means to pay the
15 restitution over a ten-year period. The county clerk shall make
16 disbursements to victims named in the order. The restitution to
17 victims named in the order shall be paid prior to any payment for other
18 penalties or monetary assessments. A juvenile under obligation to pay
19 restitution may petition the court for modification of the restitution
20 order.

21 (~~((+5))~~) (6) The juvenile shall retain the right to be referred to
22 the court at any time prior to the signing of the diversion agreement.

23 (~~((+6))~~) (7) Divertees and potential divertees shall be afforded due
24 process in all contacts with a (~~(diversionary)~~) diversion unit
25 regardless of whether the juveniles are accepted for diversion or
26 whether the diversion program is successfully completed. Such due
27 process shall include, but not be limited to, the following:

28 (a) A written diversion agreement shall be executed stating all
29 conditions in clearly understandable language;

30 (b) Violation of the terms of the agreement shall be the only
31 grounds for termination;

32 (c) No divertee may be terminated from a diversion program without
33 being given a court hearing, which hearing shall be preceded by:

34 (i) Written notice of alleged violations of the conditions of the
35 diversion program; and

36 (ii) Disclosure of all evidence to be offered against the divertee;

37 (d) The hearing shall be conducted by the juvenile court and shall
38 include:

39 (i) Opportunity to be heard in person and to present evidence;

1 (ii) The right to confront and cross-examine all adverse witnesses;
2 (iii) A written statement by the court as to the evidence relied on
3 and the reasons for termination, should that be the decision; and
4 (iv) Demonstration by evidence that the diverttee has substantially
5 violated the terms of his or her diversion agreement.

6 (e) The prosecutor may file an information on the offense for which
7 the diverttee was diverted:

8 (i) In juvenile court if the diverttee is under eighteen years of
9 age; or

10 (ii) In superior court or the appropriate court of limited
11 jurisdiction if the diverttee is eighteen years of age or older.

12 ~~((+7))~~ (8) The diversion unit shall, subject to available funds,
13 be responsible for providing interpreters when juveniles need
14 interpreters to effectively communicate during diversion unit hearings
15 or negotiations.

16 ~~((+8))~~ (9) The diversion unit shall be responsible for advising a
17 diverttee of his or her rights as provided in this chapter.

18 ~~((+9))~~ (10) The diversion unit may refer a juvenile to community-
19 based counseling or treatment programs.

20 ~~((+10))~~ (11) The right to counsel shall inure prior to the initial
21 interview for purposes of advising the juvenile as to whether he or she
22 desires to participate in the diversion process or to appear in the
23 juvenile court. The juvenile may be represented by counsel at any
24 critical stage of the diversion process, including intake interviews
25 and termination hearings. The juvenile shall be fully advised at the
26 intake of his or her right to an attorney and of the relevant services
27 an attorney can provide. For the purpose of this section, intake
28 interviews mean all interviews regarding the diversion agreement
29 process.

30 The juvenile shall be advised that a diversion agreement shall
31 constitute a part of the juvenile's criminal history as defined by RCW
32 13.40.020(7). A signed acknowledgment of such advisement shall be
33 obtained from the juvenile, and the document shall be maintained by the
34 ~~((diversionary))~~ diversion unit together with the diversion agreement,
35 and a copy of both documents shall be delivered to the prosecutor if
36 requested by the prosecutor. The supreme court shall promulgate rules
37 setting forth the content of such advisement in simple language.

1 (~~(11)~~) (12) When a juvenile enters into a diversion agreement,
2 the juvenile court may receive only the following information for
3 dispositional purposes:

4 (a) The fact that a charge or charges were made;

5 (b) The fact that a diversion agreement was entered into;

6 (c) The juvenile's obligations under such agreement;

7 (d) Whether the alleged offender performed his or her obligations
8 under such agreement; and

9 (e) The facts of the alleged offense.

10 (~~(12)~~) (13) A (~~(diversionary)~~) diversion unit may refuse to enter
11 into a diversion agreement with a juvenile. When a (~~(diversionary)~~)
12 diversion unit refuses to enter a diversion agreement with a juvenile,
13 it shall immediately refer such juvenile to the court for action and
14 shall forward to the court the criminal complaint and a detailed
15 statement of its reasons for refusing to enter into a diversion
16 agreement. The (~~(diversionary)~~) diversion unit shall also immediately
17 refer the case to the prosecuting attorney for action if such juvenile
18 violates the terms of the diversion agreement.

19 (~~(13)~~) (14) A (~~(diversionary)~~) diversion unit may, in instances
20 where it determines that the act or omission of an act for which a
21 juvenile has been referred to it involved no victim, or where it
22 determines that the juvenile referred to it has no prior criminal
23 history and is alleged to have committed an illegal act involving no
24 threat of or instance of actual physical harm and involving not more
25 than fifty dollars in property loss or damage and that there is no loss
26 outstanding to the person or firm suffering such damage or loss,
27 counsel and release or release such a juvenile without entering into a
28 diversion agreement. A diversion unit's authority to counsel and
29 release a juvenile under this subsection (~~(shall)~~) includes the
30 authority to refer the juvenile to community-based counseling or
31 treatment programs. Any juvenile released under this subsection shall
32 be advised that the act or omission of any act for which he or she had
33 been referred shall constitute a part of the juvenile's criminal
34 history as defined by RCW 13.40.020(7). A signed acknowledgment of
35 such advisement shall be obtained from the juvenile, and the document
36 shall be maintained by the unit, and a copy of the document shall be
37 delivered to the prosecutor if requested by the prosecutor. The
38 supreme court shall promulgate rules setting forth the content of such
39 advisement in simple language. A juvenile determined to be eligible by

1 a (~~(diversionary)~~) diversion unit for release as provided in this
2 subsection shall retain the same right to counsel and right to have his
3 or her case referred to the court for formal action as any other
4 juvenile referred to the unit.

5 (~~(14)~~) (15) A diversion unit may supervise the fulfillment of a
6 diversion agreement entered into before the juvenile's eighteenth
7 birthday and which includes a period extending beyond the divertee's
8 eighteenth birthday.

9 (~~(15)~~) (16) If a fine required by a diversion agreement cannot
10 reasonably be paid due to a change of circumstance, the diversion
11 agreement may be modified at the request of the divertee and with the
12 concurrence of the diversion unit to convert an unpaid fine into
13 community service. The modification of the diversion agreement shall
14 be in writing and signed by the divertee and the diversion unit. The
15 number of hours of community service in lieu of a monetary penalty
16 shall be converted at the rate of the prevailing state minimum wage per
17 hour.

18 (~~(16)~~) (17) Fines imposed under this section shall be collected
19 and paid into the county general fund in accordance with procedures
20 established by the juvenile court administrator under RCW 13.04.040 and
21 may be used only for juvenile services. In the expenditure of funds
22 for juvenile services, there shall be a maintenance of effort whereby
23 counties exhaust existing resources before using amounts collected
24 under this section.

25 NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW
26 to read as follows:

27 Youth courts provide a diversion for cases involving juvenile
28 offenders, in which participants, under the supervision of an adult
29 coordinator, may serve in various capacities within the program, acting
30 in the role of jurors, lawyers, bailiffs, clerks, and judges. Youths
31 who appear before youth courts are youths eligible for diversion
32 pursuant to RCW 13.40.070 (6) and (7). Youth courts have no
33 jurisdiction except as provided for in this act. Youth courts are
34 diversion units and not courts established under Article IV of the
35 state Constitution.

36 NEW SECTION. Sec. 10. A new section is added to chapter 13.40 RCW
37 to read as follows:

1 (1) The administrative office of the courts shall encourage the
2 juvenile courts to work with cities and counties to implement, expand,
3 or use youth court programs for juveniles who commit diversion-eligible
4 offenses, civil, or traffic infractions. Program operations of youth
5 court programs may be funded by government and private grants. Youth
6 court programs are limited to those that:

7 (a) Are developed using the guidelines for creating and operating
8 youth court programs developed by nationally recognized experts in
9 youth court projects;

10 (b) Target offenders age eight through seventeen; and

11 (c) Emphasize the following principles:

12 (i) Youth must be held accountable for their problem behavior;

13 (ii) Youth must be educated about the impact their actions have on
14 themselves and others including their victims, their families, and
15 their community;

16 (iii) Youth must develop skills to resolve problems with their
17 peers more effectively; and

18 (iv) Youth should be provided a meaningful forum to practice and
19 enhance newly developed skills.

20 (2) Youth court programs under this section may be established by
21 private nonprofit organizations and schools, upon prior approval and
22 under the supervision of juvenile court.

23 NEW SECTION. **Sec. 11.** A new section is added to chapter 13.40 RCW
24 to read as follows:

25 (1) Youth courts have authority over juveniles ages eight through
26 seventeen who:

27 (a) Along with their parent, guardian, or legal custodian,
28 voluntarily and in writing request youth court involvement;

29 (b) Admit they have committed the offense they are referred for;

30 (c) Along with their parent, guardian, or legal custodian, waive
31 any privilege against self-incrimination concerning the offense; and

32 (d) Along with their parent, guardian, or legal custodian, agree to
33 comply with the youth court disposition of the case.

34 (2) Youth courts shall not exercise authority over youth who are
35 under the continuing jurisdiction of the juvenile court for law
36 violations, including a youth with a matter pending before the juvenile
37 court but which has not yet been adjudicated.

1 (3) Youth courts may decline to accept a youth for youth court
2 disposition for any reason and may terminate a youth from youth court
3 participation at any time.

4 (4) A youth or his or her parent, guardian, or legal custodian may
5 withdraw from the youth court process at any time.

6 (5) Youth courts shall give any victims of a juvenile the
7 opportunity to be notified, present, and heard in any youth court
8 proceeding.

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 13.40 RCW
10 to read as follows:

11 Youth court may not notify the juvenile court of satisfaction of
12 conditions until all ordered restitution has been paid.

13 NEW SECTION. **Sec. 13.** A new section is added to chapter 13.40 RCW
14 to read as follows:

15 Every youth appearing before a youth court shall be accompanied by
16 his or her parent, guardian, or legal custodian.

17 NEW SECTION. **Sec. 14.** A new section is added to chapter 13.40 RCW
18 to read as follows:

19 (1) Youth court dispositional options include those delineated in
20 RCW 13.40.080, and may also include:

21 (a) Participating in law-related education classes, appropriate
22 counseling, treatment, or other education programs;

23 (b) Providing periodic reports to the youth court;

24 (c) Participating in mentoring programs;

25 (d) Serving as a participant in future youth court proceedings;

26 (e) Writing apology letters; or

27 (f) Writing essays.

28 (2) Youth courts shall not impose a term of confinement or
29 detention. Youth courts may require that the youth pay reasonable fees
30 to participate in youth court and in classes, counseling, treatment, or
31 other educational programs that are the disposition of the youth court.

32 (3) A youth court disposition shall be completed within one hundred
33 eighty days from the date of referral.

34 (4) Pursuant to RCW 13.40.080(1), a youth court disposition shall
35 be reduced to writing and signed by the youth and his or her parent,
36 guardian, or legal custodian accepting the disposition terms.

1 (5) Youth court shall notify the juvenile court upon successful or
2 unsuccessful completion of the disposition.

3 (6) Youth court shall notify the prosecutor or probation counselor
4 of a failure to successfully complete the youth court disposition.

5 NEW SECTION. **Sec. 15.** A new section is added to chapter 13.40 RCW
6 to read as follows:

7 A youth court may require that a youth pay a nonrefundable fee, not
8 exceeding thirty dollars, to cover the costs of administering the
9 program. The fee may be reduced or waived for a participant. Fees
10 shall be paid to and accounted for by the youth court.

11 **Sec. 16.** RCW 9.94A.850 and 2000 c 28 s 41 are each amended to read
12 as follows:

13 (1) A sentencing guidelines commission is established as an agency
14 of state government.

15 (2) The legislature finds that the commission, having accomplished
16 its original statutory directive to implement this chapter, and having
17 expertise in sentencing practice and policies, shall:

18 (a) Evaluate state sentencing policy, to include whether the
19 sentencing ranges and standards are consistent with and further:

20 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

21 (ii) The intent of the legislature to emphasize confinement for the
22 violent offender and alternatives to confinement for the nonviolent
23 offender.

24 The commission shall provide the governor and the legislature with
25 its evaluation and recommendations under this subsection not later than
26 December 1, 1996, and every two years thereafter;

27 (b) Recommend to the legislature revisions or modifications to the
28 standard sentence ranges, state sentencing policy, prosecuting
29 standards, and other standards. If implementation of the revisions or
30 modifications would result in exceeding the capacity of correctional
31 facilities, then the commission shall accompany its recommendation with
32 an additional list of standard sentence ranges which are consistent
33 with correction capacity;

34 (c) Study the existing criminal code and from time to time make
35 recommendations to the legislature for modification;

36 (d)(i) Serve as a clearinghouse and information center for the
37 collection, preparation, analysis, and dissemination of information on

1 state and local adult and juvenile sentencing practices; (ii) develop
2 and maintain a computerized adult and juvenile sentencing information
3 system by individual superior court judge consisting of offender,
4 offense, history, and sentence information entered from judgment and
5 sentence forms for all adult felons; and (iii) conduct ongoing research
6 regarding adult and juvenile sentencing guidelines, use of total
7 confinement and alternatives to total confinement, plea bargaining, and
8 other matters relating to the improvement of the adult criminal justice
9 system and the juvenile justice system;

10 (e) Assume the powers and duties of the juvenile disposition
11 standards commission after June 30, 1996;

12 (f) Evaluate the effectiveness of existing disposition standards
13 and related statutes in implementing policies set forth in RCW
14 13.40.010 generally, specifically review the guidelines relating to the
15 confinement of minor and first-time offenders as well as the use of
16 diversion, and review the application of current and proposed juvenile
17 sentencing standards and guidelines for potential adverse impacts on
18 the sentencing outcomes of racial and ethnic minority youth;

19 (g) Solicit the comments and suggestions of the juvenile justice
20 community concerning disposition standards, and make recommendations to
21 the legislature regarding revisions or modifications of the standards.
22 The evaluations shall be submitted to the legislature on December 1 of
23 each odd-numbered year. The department of social and health services
24 shall provide the commission with available data concerning the
25 implementation of the disposition standards and related statutes and
26 their effect on the performance of the department's responsibilities
27 relating to juvenile offenders, and with recommendations for
28 modification of the disposition standards. The office of the
29 administrator for the courts shall provide the commission with
30 available data on diversion, including the use of youth court programs,
31 and dispositions of juvenile offenders under chapter 13.40 RCW; and

32 (h) Not later than December 1, 1997, and at least every two years
33 thereafter, based on available information, report to the governor and
34 the legislature on:

35 (i) Racial disproportionality in juvenile and adult sentencing,
36 and, if available, the impact that diversions, such as youth courts,
37 have on racial disproportionality in juvenile prosecution,
38 adjudication, and sentencing;

1 (ii) The capacity of state and local juvenile and adult facilities
2 and resources; and

3 (iii) Recidivism information on adult and juvenile offenders.

4 (3) Each of the commission's recommended standard sentence ranges
5 shall include one or more of the following: Total confinement, partial
6 confinement, community supervision, community service, and a fine.

7 (4) The standard sentence ranges of total and partial confinement
8 under this chapter are subject to the following limitations:

9 (a) If the maximum term in the range is one year or less, the
10 minimum term in the range shall be no less than one-third of the
11 maximum term in the range, except that if the maximum term in the range
12 is ninety days or less, the minimum term may be less than one-third of
13 the maximum;

14 (b) If the maximum term in the range is greater than one year, the
15 minimum term in the range shall be no less than seventy-five percent of
16 the maximum term in the range, except that for murder in the second
17 degree in seriousness level XIV under RCW 9.94A.510, the minimum term
18 in the range shall be no less than fifty percent of the maximum term in
19 the range; and

20 (c) The maximum term of confinement in a range may not exceed the
21 statutory maximum for the crime as provided in RCW 9A.20.021.

22 (5)(a) Not later than December 31, 1999, the commission shall
23 propose to the legislature the initial community custody ranges to be
24 included in sentences under RCW 9.94A.715 for crimes committed on or
25 after July 1, 2000. Not later than December 31 of each year, the
26 commission may propose modifications to the ranges. The ranges shall
27 be based on the principles in RCW 9.94A.010, and shall take into
28 account the funds available to the department for community custody.
29 The minimum term in each range shall not be less than one-half of the
30 maximum term.

31 (b) The legislature may, by enactment of a legislative bill, adopt
32 or modify the community custody ranges proposed by the commission. If
33 the legislature fails to adopt or modify the initial ranges in its next
34 regular session after they are proposed, the proposed ranges shall take
35 effect without legislative approval for crimes committed on or after
36 July 1, 2000.

37 (c) When the commission proposes modifications to ranges pursuant
38 to this subsection, the legislature may, by enactment of a bill, adopt
39 or modify the ranges proposed by the commission for crimes committed on

1 or after July 1 of the year after they were proposed. Unless the
2 legislature adopts or modifies the commission's proposal in its next
3 regular session, the proposed ranges shall not take effect.

4 (6) The commission shall exercise its duties under this section in
5 conformity with chapter 34.05 RCW.

6 NEW SECTION. **Sec. 17.** A new section is added to chapter 28A.300
7 RCW to read as follows:

8 The office of the superintendent of public instruction shall
9 encourage school districts to implement, expand, or use student court
10 programs for students who commit violations of school rules and
11 policies. Program operations of student courts may be funded by
12 government and private grants. Student court programs are limited to
13 those that:

14 (1) Are developed using the guidelines for creating and operating
15 student court programs developed by nationally recognized student court
16 projects;

17 (2) Target violations of school rules by students enrolled in
18 public or private school; and

19 (3) Emphasize the following principles:

20 (a) Youth must be held accountable for their problem behavior;

21 (b) Youth must be educated about the impact their actions have on
22 themselves and others including the school, school personnel, their
23 classmates, their families, and their community;

24 (c) Youth must develop skills to resolve problems with their peers
25 more effectively; and

26 (d) Youth should be provided a meaningful forum to practice and
27 enhance newly developed skills.

28 NEW SECTION. **Sec. 18.** A new section is added to chapter 28A.320
29 RCW to read as follows:

30 Local school boards may provide for school credit for participation
31 as a member of a youth court as defined in section 1 of this act or RCW
32 13.40.020 or a student court pursuant to section 17 of this act.

33 **Sec. 19.** RCW 13.40.250 and 1997 c 338 s 36 are each amended to
34 read as follows:

1 A traffic or civil infraction case involving a juvenile under the
2 age of sixteen may be diverted in accordance with the provisions of
3 this chapter or filed in juvenile court.

4 (1) If a notice of a traffic or civil infraction is filed in
5 juvenile court, the juvenile named in the notice shall be afforded the
6 same due process afforded to adult defendants in traffic infraction
7 cases.

8 (2) A monetary penalty imposed upon a juvenile under the age of
9 sixteen who is found to have committed a traffic or civil infraction
10 may not exceed one hundred dollars. At the juvenile's request, the
11 court may order performance of a number of hours of community service
12 in lieu of a monetary penalty, at the rate of the prevailing state
13 minimum wage per hour.

14 (3) A diversion agreement entered into by a juvenile referred
15 pursuant to this section shall be limited to thirty hours of community
16 service, or educational or informational sessions.

17 (4) Traffic or civil infractions referred to a youth court pursuant
18 to this section are subject to the conditions imposed by section 14 of
19 this act.

20 (5) If a case involving the commission of a traffic or civil
21 infraction or offense by a juvenile under the age of sixteen has been
22 referred to a diversion unit, an abstract of the action taken by the
23 diversion unit may be forwarded to the department of licensing in the
24 manner provided for in RCW 46.20.270(2).

25 **Sec. 20.** RCW 46.63.040 and 1984 c 258 s 137 are each amended to
26 read as follows:

27 (1) All violations of state law, local law, ordinance, regulation,
28 or resolution designated as traffic infractions in RCW 46.63.020 may be
29 heard and determined by a district court, except as otherwise provided
30 in this section.

31 (2) Any municipal court has the authority to hear and determine
32 traffic infractions pursuant to this chapter.

33 (3) Any city or town with a municipal court may contract with the
34 county to have traffic infractions committed within the city or town
35 adjudicated by a district court.

36 (4) District court commissioners have the authority to hear and
37 determine traffic infractions pursuant to this chapter.

1 (5) Any district or municipal court may refer juveniles age sixteen
2 or seventeen who are enrolled in school to a youth court, as defined in
3 section 1 of this act or RCW 13.40.020, for traffic infractions.

4 (6) The boards of regents of the state universities, and the boards
5 of trustees of the regional universities and of The Evergreen State
6 College have the authority to hear and determine traffic infractions
7 under RCW 28B.10.560.

8 NEW SECTION. Sec. 21. Sections 1 through 6 of this act constitute
9 a new chapter in Title 3 RCW."

10 Correct the title.

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