

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5692

57th Legislature
2002 Regular Session

Passed by the Senate March 11, 2002
YEAS 41 NAYS 3

President of the Senate

Passed by the House March 7, 2002
YEAS 78 NAYS 16

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5692** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5692

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senators Costa, Long, Hargrove, Rasmussen and Kohl-Welles

Read first time 01/31/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to authorizing the participation of youth as
2 decision makers in dispositions of minor offenses and rules violations;
3 amending RCW 13.40.020, 13.40.080, 9.94A.850, 13.40.250, and 46.63.040;
4 adding new sections to chapter 13.40 RCW; adding a new section to
5 chapter 28A.300 RCW; adding a new section to chapter 28A.320 RCW; and
6 adding a new chapter to Title 3 RCW.

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

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

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

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

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

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

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

10 (a) May not have had a prior traffic infraction referred to a youth
11 court;

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

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

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

18 NEW SECTION. **Sec. 3.** (1) A youth court agreement shall be a
19 contract between a juvenile accused of a traffic infraction and a court
20 whereby the juvenile agrees to fulfill certain conditions imposed by a
21 youth court in lieu of a determination that a traffic infraction
22 occurred. Such agreements may be entered into only after the law
23 enforcement authority has determined that probable cause exists to
24 believe that a traffic infraction has been committed and that the
25 juvenile committed it. A youth court agreement shall be reduced to
26 writing and signed by the court and the youth accepting the terms of
27 the agreement. Such agreements shall be entered into as expeditiously
28 as possible.

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

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

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

1 (c) A monetary penalty, not to exceed one hundred dollars. All
2 monetary penalties assessed and collected under this section shall be
3 deposited and distributed in the same manner as costs, fines,
4 forfeitures, and penalties are assessed and collected under RCW
5 2.68.040, 3.46.120, 3.50.100, 3.62.020, 3.62.040, 35.20.220, and
6 46.63.110(6), regardless of the juvenile's successful or unsuccessful
7 completion of the youth court agreement;

8 (d) Requirements to remain during specified hours at home, school,
9 or work, and restrictions on leaving or entering specified geographical
10 areas;

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

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

13 (g) Participating in mentoring programs;

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

15 (i) Writing apology letters; or

16 (j) Writing essays.

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

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

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

23 (4) A youth court agreement may extend beyond the eighteenth
24 birthday of the youth.

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

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

33 (b) Violation of the terms of the agreement shall be the only
34 grounds for termination.

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

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

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

3 (a) The fact that a traffic infraction was alleged to have been
4 committed;

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

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

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

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

10 (9) A court may refuse to enter into a youth court agreement with
11 a juvenile. When a court refuses to enter a youth court agreement with
12 a juvenile, it shall set the matter for hearing in accordance with all
13 applicable court rules and statutory provisions governing the hearing
14 and disposition of traffic infractions.

15 (10) If a monetary penalty required by a youth court agreement
16 cannot reasonably be paid due to a lack of financial resources of the
17 youth, the court may convert any or all of the monetary penalty into
18 community service. The modification of the youth court agreement shall
19 be in writing and signed by the juvenile and the court. The number of
20 hours of community service in lieu of a monetary penalty shall be
21 converted at the rate of the prevailing state minimum wage per hour.

22 NEW SECTION. **Sec. 4.** Youth courts provide a disposition method
23 for cases involving juveniles alleged to have committed traffic
24 infractions, in which participants, under the supervision of the court,
25 may serve in various capacities within the youth court, acting in the
26 role of jurors, lawyers, bailiffs, clerks, and judges. Youth courts
27 have no jurisdiction except as provided for in this chapter. Youth
28 courts are not courts established under Article IV of the state
29 Constitution.

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

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

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

6 (3) Emphasize the following principles:

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

8 (b) Youth must be educated about the impact their actions have on
9 themselves and others including their victims, their families, and
10 their community;

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

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

15 NEW SECTION. **Sec. 6.** A court may require that a youth pay a
16 nonrefundable fee, not exceeding thirty dollars, to cover the costs of
17 administering the program. The fee may be reduced or waived for a
18 participant. Fees shall be paid to and accounted for by the court.
19 The fees collected under this section shall not constitute "certain
20 costs" as defined in RCW 3.46.120(2), 3.50.100(2), 3.62.020(2),
21 3.62.040(2), and 35.20.220(2).

22 **Sec. 7.** 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, youth court under the
23 supervision of the juvenile court, or other entity except a law
24 enforcement official or entity, with whom the juvenile court
25 administrator has contracted to arrange and supervise such agreements
26 pursuant to RCW 13.40.080, or any person, community accountability
27 board, or other entity specially funded by the legislature to arrange
28 and supervise diversion agreements in accordance with the requirements
29 of this chapter. For purposes of this subsection, "community
30 accountability board" means a board comprised of members of the local
31 community in which the juvenile offender resides. The superior court
32 shall appoint the members. The boards shall consist of at least three
33 and not more than seven members. If possible, the board should include
34 a variety of representatives from the community, such as a law
35 enforcement officer, teacher or school administrator, high school
36 student, parent, and business owner, and should represent the cultural
37 diversity of the local community;

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

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

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

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

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

19 (16) "Local sanctions" means one or more of the following: (a)
20 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
21 0-150 hours of community service; or (d) \$0-\$500 fine;

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

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

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

37 (20) "Probation bond" means a bond, posted with sufficient security
38 by a surety justified and approved by the court, to secure the
39 offender's appearance at required court proceedings and compliance with

1 court-ordered community supervision or conditions of release ordered
2 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
3 cash or posting of other collateral in lieu of a bond if approved by
4 the court;

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

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

17 (23) "Secretary" means the secretary of the department of social
18 and health services. "Assistant secretary" means the assistant
19 secretary for juvenile rehabilitation for the department;

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

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

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

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

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

36 (29) "Violent offense" means a violent offense as defined in RCW
37 9.94A.030.

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

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

3 (1) A diversion agreement shall be a contract between a juvenile
4 accused of an offense and a ~~((diversionary))~~ diversion unit whereby the
5 juvenile agrees to fulfill certain conditions in lieu of prosecution.
6 Such agreements may be entered into only after the prosecutor, or
7 probation counselor pursuant to this chapter, has determined that
8 probable cause exists to believe that a crime has been committed and
9 that the juvenile committed it. Such agreements shall be entered into
10 as expeditiously as possible.

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

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

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

17 (c) Attendance at up to ten hours of counseling and/or up to twenty
18 hours of educational or informational sessions at a community agency.
19 The educational or informational sessions may include sessions relating
20 to respect for self, others, and authority; victim awareness;
21 accountability; self-worth; responsibility; work ethics; good
22 citizenship; literacy; and life skills. For purposes of this section,
23 "community agency" may also mean a community-based nonprofit
24 organization, if approved by the diversion unit. The state shall not
25 be liable for costs resulting from the ~~((diversionary))~~ diversion unit
26 exercising the option to permit diversion agreements to mandate
27 attendance at up to ten hours of counseling and/or up to twenty hours
28 of educational or informational sessions;

29 (d) A fine, not to exceed one hundred dollars~~((—In determining~~
30 ~~the amount of the fine, the diversion unit shall consider only the~~
31 ~~juvenile's financial resources and whether the juvenile has the means~~
32 ~~to pay the fine. The diversion unit shall not consider the financial~~
33 ~~resources of the juvenile's parents, guardian, or custodian in~~
34 ~~determining the fine to be imposed))~~);

35 (e) Requirements to remain during specified hours at home, school,
36 or work, and restrictions on leaving or entering specified geographical
37 areas; and

1 (f) Upon request of ~~((the))~~ any victim or witness, requirements to
2 refrain from any contact with victims or witnesses of offenses
3 committed by the juvenile.

4 (3) Notwithstanding the provisions of subsection (2) of this
5 section, youth courts are not limited to the conditions imposed by
6 subsection (2) of this section in imposing sanctions on juveniles
7 pursuant to section 14 of this act.

8 (4) In assessing periods of community service to be performed and
9 restitution to be paid by a juvenile who has entered into a diversion
10 agreement, the court officer to whom this task is assigned shall
11 consult with the juvenile's custodial parent or parents or guardian and
12 victims who have contacted the ~~((diversionary))~~ diversion unit and, to
13 the extent possible, involve members of the community. Such members of
14 the community shall meet with the juvenile and advise the court officer
15 as to the terms of the diversion agreement and shall supervise the
16 juvenile in carrying out its terms.

17 ~~((+4))~~ (5)(a) A diversion agreement may not exceed a period of six
18 months and may include a period extending beyond the eighteenth
19 birthday of the divertee.

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

23 (c) If the juvenile has not paid the full amount of restitution by
24 the end of the additional six-month period, then the juvenile shall be
25 referred to the juvenile court for entry of an order establishing the
26 amount of restitution still owed to the victim. In this order, the
27 court shall also determine the terms and conditions of the restitution,
28 including a payment plan extending up to ten years if the court
29 determines that the juvenile does not have the means to make full
30 restitution over a shorter period. For the purposes of this subsection
31 ~~((+4))~~ (5)(c), the juvenile shall remain under the court's
32 jurisdiction for a maximum term of ten years after the juvenile's
33 eighteenth birthday. Prior to the expiration of the initial ten-year
34 period, the juvenile court may extend the judgment for restitution an
35 additional ten years. The court may not require the juvenile to pay
36 full or partial restitution if the juvenile reasonably satisfies the
37 court that he or she does not have the means to make full or partial
38 restitution and could not reasonably acquire the means to pay the
39 restitution over a ten-year period. The county clerk shall make

1 disbursements to victims named in the order. The restitution to
2 victims named in the order shall be paid prior to any payment for other
3 penalties or monetary assessments. A juvenile under obligation to pay
4 restitution may petition the court for modification of the restitution
5 order.

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

8 ~~((+6))~~ (7) Divertees and potential divertees shall be afforded due
9 process in all contacts with a ~~((diversionary))~~ diversion unit
10 regardless of whether the juveniles are accepted for diversion or
11 whether the diversion program is successfully completed. Such due
12 process shall include, but not be limited to, the following:

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

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

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

19 (i) Written notice of alleged violations of the conditions of the
20 diversion program; and

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

22 (d) The hearing shall be conducted by the juvenile court and shall
23 include:

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

25 (ii) The right to confront and cross-examine all adverse witnesses;

26 (iii) A written statement by the court as to the evidence relied on
27 and the reasons for termination, should that be the decision; and

28 (iv) Demonstration by evidence that the divertee has substantially
29 violated the terms of his or her diversion agreement.

30 (e) The prosecutor may file an information on the offense for which
31 the divertee was diverted:

32 (i) In juvenile court if the divertee is under eighteen years of
33 age; or

34 (ii) In superior court or the appropriate court of limited
35 jurisdiction if the divertee is eighteen years of age or older.

36 ~~((+7))~~ (8) The diversion unit shall, subject to available funds,
37 be responsible for providing interpreters when juveniles need
38 interpreters to effectively communicate during diversion unit hearings
39 or negotiations.

1 (~~(8)~~) (9) The diversion unit shall be responsible for advising a
2 divertee of his or her rights as provided in this chapter.

3 (~~(9)~~) (10) The diversion unit may refer a juvenile to community-
4 based counseling or treatment programs.

5 (~~(10)~~) (11) The right to counsel shall inure prior to the initial
6 interview for purposes of advising the juvenile as to whether he or she
7 desires to participate in the diversion process or to appear in the
8 juvenile court. The juvenile may be represented by counsel at any
9 critical stage of the diversion process, including intake interviews
10 and termination hearings. The juvenile shall be fully advised at the
11 intake of his or her right to an attorney and of the relevant services
12 an attorney can provide. For the purpose of this section, intake
13 interviews mean all interviews regarding the diversion agreement
14 process.

15 The juvenile shall be advised that a diversion agreement shall
16 constitute a part of the juvenile's criminal history as defined by RCW
17 13.40.020(7). A signed acknowledgment of such advisement shall be
18 obtained from the juvenile, and the document shall be maintained by the
19 (~~(diversionary)~~) diversion unit together with the diversion agreement,
20 and a copy of both documents shall be delivered to the prosecutor if
21 requested by the prosecutor. The supreme court shall promulgate rules
22 setting forth the content of such advisement in simple language.

23 (~~(11)~~) (12) When a juvenile enters into a diversion agreement,
24 the juvenile court may receive only the following information for
25 dispositional purposes:

- 26 (a) The fact that a charge or charges were made;
- 27 (b) The fact that a diversion agreement was entered into;
- 28 (c) The juvenile's obligations under such agreement;
- 29 (d) Whether the alleged offender performed his or her obligations
30 under such agreement; and
- 31 (e) The facts of the alleged offense.

32 (~~(12)~~) (13) A (~~(diversionary)~~) diversion unit may refuse to enter
33 into a diversion agreement with a juvenile. When a (~~(diversionary)~~)
34 diversion unit refuses to enter a diversion agreement with a juvenile,
35 it shall immediately refer such juvenile to the court for action and
36 shall forward to the court the criminal complaint and a detailed
37 statement of its reasons for refusing to enter into a diversion
38 agreement. The (~~(diversionary)~~) diversion unit shall also immediately

1 refer the case to the prosecuting attorney for action if such juvenile
2 violates the terms of the diversion agreement.

3 ~~((13))~~ (14) A ~~((diversionary))~~ diversion unit may, in instances
4 where it determines that the act or omission of an act for which a
5 juvenile has been referred to it involved no victim, or where it
6 determines that the juvenile referred to it has no prior criminal
7 history and is alleged to have committed an illegal act involving no
8 threat of or instance of actual physical harm and involving not more
9 than fifty dollars in property loss or damage and that there is no loss
10 outstanding to the person or firm suffering such damage or loss,
11 counsel and release or release such a juvenile without entering into a
12 diversion agreement. A diversion unit's authority to counsel and
13 release a juvenile under this subsection ~~((shall))~~ includes the
14 authority to refer the juvenile to community-based counseling or
15 treatment programs. Any juvenile released under this subsection shall
16 be advised that the act or omission of any act for which he or she had
17 been referred shall constitute a part of the juvenile's criminal
18 history as defined by RCW 13.40.020(7). A signed acknowledgment of
19 such advisement shall be obtained from the juvenile, and the document
20 shall be maintained by the unit, and a copy of the document shall be
21 delivered to the prosecutor if requested by the prosecutor. The
22 supreme court shall promulgate rules setting forth the content of such
23 advisement in simple language. A juvenile determined to be eligible by
24 a ~~((diversionary))~~ diversion unit for release as provided in this
25 subsection shall retain the same right to counsel and right to have his
26 or her case referred to the court for formal action as any other
27 juvenile referred to the unit.

28 ~~((14))~~ (15) A diversion unit may supervise the fulfillment of a
29 diversion agreement entered into before the juvenile's eighteenth
30 birthday and which includes a period extending beyond the divertee's
31 eighteenth birthday.

32 ~~((15))~~ (16) If a fine required by a diversion agreement cannot
33 reasonably be paid due to a change of circumstance, the diversion
34 agreement may be modified at the request of the divertee and with the
35 concurrence of the diversion unit to convert an unpaid fine into
36 community service. The modification of the diversion agreement shall
37 be in writing and signed by the divertee and the diversion unit. The
38 number of hours of community service in lieu of a monetary penalty

1 shall be converted at the rate of the prevailing state minimum wage per
2 hour.

3 (~~(16)~~) (17) Fines imposed under this section shall be collected
4 and paid into the county general fund in accordance with procedures
5 established by the juvenile court administrator under RCW 13.04.040 and
6 may be used only for juvenile services. In the expenditure of funds
7 for juvenile services, there shall be a maintenance of effort whereby
8 counties exhaust existing resources before using amounts collected
9 under this section.

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

12 Youth courts provide a diversion for cases involving juvenile
13 offenders, in which participants, under the supervision of an adult
14 coordinator, may serve in various capacities within the program, acting
15 in the role of jurors, lawyers, bailiffs, clerks, and judges. Youths
16 who appear before youth courts are youths eligible for diversion
17 pursuant to RCW 13.40.070 (6) and (7). Youth courts have no
18 jurisdiction except as provided for in this act. Youth courts are
19 diversion units and not courts established under Article IV of the
20 state Constitution.

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

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

29 (a) Are developed using the guidelines for creating and operating
30 youth court programs developed by nationally recognized experts in
31 youth court projects;

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

33 (c) Emphasize the following principles:

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

35 (ii) Youth must be educated about the impact their actions have on
36 themselves and others including their victims, their families, and
37 their community;

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

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

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

8 NEW SECTION. Sec. 11. A new section is added to chapter 13.40 RCW
9 to read as follows:

10 (1) Youth courts have authority over juveniles ages eight through
11 seventeen who:

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

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

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

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

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

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

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

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

31 NEW SECTION. Sec. 12. A new section is added to chapter 13.40 RCW
32 to read as follows:

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

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

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

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

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

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

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

10 (c) Participating in mentoring programs;

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

12 (e) Writing apology letters; or

13 (f) Writing essays.

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

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

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

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

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

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

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

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

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

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

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

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

7 (ii) The intent of the legislature to emphasize confinement for the
8 violent offender and alternatives to confinement for the nonviolent
9 offender.

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

13 (b) Recommend to the legislature revisions or modifications to the
14 standard sentence ranges, state sentencing policy, prosecuting
15 standards, and other standards. If implementation of the revisions or
16 modifications would result in exceeding the capacity of correctional
17 facilities, then the commission shall accompany its recommendation with
18 an additional list of standard sentence ranges which are consistent
19 with correction capacity;

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

22 (d)(i) Serve as a clearinghouse and information center for the
23 collection, preparation, analysis, and dissemination of information on
24 state and local adult and juvenile sentencing practices; (ii) develop
25 and maintain a computerized adult and juvenile sentencing information
26 system by individual superior court judge consisting of offender,
27 offense, history, and sentence information entered from judgment and
28 sentence forms for all adult felons; and (iii) conduct ongoing research
29 regarding adult and juvenile sentencing guidelines, use of total
30 confinement and alternatives to total confinement, plea bargaining, and
31 other matters relating to the improvement of the adult criminal justice
32 system and the juvenile justice system;

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

35 (f) Evaluate the effectiveness of existing disposition standards
36 and related statutes in implementing policies set forth in RCW
37 13.40.010 generally, specifically review the guidelines relating to the
38 confinement of minor and first-time offenders as well as the use of
39 diversion, and review the application of current and proposed juvenile

1 sentencing standards and guidelines for potential adverse impacts on
2 the sentencing outcomes of racial and ethnic minority youth;

3 (g) Solicit the comments and suggestions of the juvenile justice
4 community concerning disposition standards, and make recommendations to
5 the legislature regarding revisions or modifications of the standards.
6 The evaluations shall be submitted to the legislature on December 1 of
7 each odd-numbered year. The department of social and health services
8 shall provide the commission with available data concerning the
9 implementation of the disposition standards and related statutes and
10 their effect on the performance of the department's responsibilities
11 relating to juvenile offenders, and with recommendations for
12 modification of the disposition standards. The office of the
13 administrator for the courts shall provide the commission with
14 available data on diversion, including the use of youth court programs,
15 and dispositions of juvenile offenders under chapter 13.40 RCW; and

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

19 (i) Racial disproportionality in juvenile and adult sentencing,
20 and, if available, the impact that diversions, such as youth courts,
21 have on racial disproportionality in juvenile prosecution,
22 adjudication, and sentencing;

23 (ii) The capacity of state and local juvenile and adult facilities
24 and resources; and

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

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

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

31 (a) If the maximum term in the range is one year or less, the
32 minimum term in the range shall be no less than one-third of the
33 maximum term in the range, except that if the maximum term in the range
34 is ninety days or less, the minimum term may be less than one-third of
35 the maximum;

36 (b) If the maximum term in the range is greater than one year, the
37 minimum term in the range shall be no less than seventy-five percent of
38 the maximum term in the range, except that for murder in the second
39 degree in seriousness level XIV under RCW 9.94A.510, the minimum term

1 in the range shall be no less than fifty percent of the maximum term in
2 the range; and

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

5 (5)(a) Not later than December 31, 1999, the commission shall
6 propose to the legislature the initial community custody ranges to be
7 included in sentences under RCW 9.94A.715 for crimes committed on or
8 after July 1, 2000. Not later than December 31 of each year, the
9 commission may propose modifications to the ranges. The ranges shall
10 be based on the principles in RCW 9.94A.010, and shall take into
11 account the funds available to the department for community custody.
12 The minimum term in each range shall not be less than one-half of the
13 maximum term.

14 (b) The legislature may, by enactment of a legislative bill, adopt
15 or modify the community custody ranges proposed by the commission. If
16 the legislature fails to adopt or modify the initial ranges in its next
17 regular session after they are proposed, the proposed ranges shall take
18 effect without legislative approval for crimes committed on or after
19 July 1, 2000.

20 (c) When the commission proposes modifications to ranges pursuant
21 to this subsection, the legislature may, by enactment of a bill, adopt
22 or modify the ranges proposed by the commission for crimes committed on
23 or after July 1 of the year after they were proposed. Unless the
24 legislature adopts or modifies the commission's proposal in its next
25 regular session, the proposed ranges shall not take effect.

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

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

30 The office of the superintendent of public instruction shall
31 encourage school districts to implement, expand, or use student court
32 programs for students who commit violations of school rules and
33 policies. Program operations of student courts may be funded by
34 government and private grants. Student court programs are limited to
35 those that:

36 (1) Are developed using the guidelines for creating and operating
37 student court programs developed by nationally recognized student court
38 projects;

- 1 (2) Target violations of school rules by students enrolled in
2 public or private school; and
- 3 (3) Emphasize the following principles:
- 4 (a) Youth must be held accountable for their problem behavior;
- 5 (b) Youth must be educated about the impact their actions have on
6 themselves and others including the school, school personnel, their
7 classmates, their families, and their community;
- 8 (c) Youth must develop skills to resolve problems with their peers
9 more effectively; and
- 10 (d) Youth should be provided a meaningful forum to practice and
11 enhance newly developed skills.

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

14 Local school boards may provide for school credit for participation
15 as a member of a youth court as defined in section 1 of this act or RCW
16 13.40.020 or a student court pursuant to section 17 of this act.

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

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

22 (1) If a notice of a traffic or civil infraction is filed in
23 juvenile court, the juvenile named in the notice shall be afforded the
24 same due process afforded to adult defendants in traffic infraction
25 cases.

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

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

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

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

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

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

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

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

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

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

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

26 NEW SECTION. **Sec. 21.** Sections 1 through 6 of this act constitute
27 a new chapter in Title 3 RCW.

--- END ---