

ESHB 3186 - S COMM AMD

By Committee on Human Services & Corrections

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 13.40.200 and 2004 c 120 s 7 are each amended to read  
4 as follows:

5 (1) When a respondent fails to comply with an order of restitution,  
6 community supervision, penalty assessments, or confinement of less than  
7 thirty days, the court upon motion of the prosecutor or its own motion,  
8 may modify the order after a hearing on the violation.

9 (2) The hearing shall afford the respondent the same due process of  
10 law as would be afforded an adult probationer. The court may issue a  
11 summons or a warrant to compel the respondent's appearance. The state  
12 shall have the burden of proving by a preponderance of the evidence the  
13 fact of the violation. The respondent shall have the burden of showing  
14 that the violation was not a willful refusal to comply with the terms  
15 of the order. If a respondent has failed to pay a fine, penalty  
16 assessments, or restitution or to perform community restitution hours,  
17 as required by the court, it shall be the respondent's burden to show  
18 that he or she did not have the means and could not reasonably have  
19 acquired the means to pay the fine, penalty assessments, or restitution  
20 or perform community restitution.

21 (3) If the court finds that a respondent has willfully violated the  
22 terms of an order pursuant to subsections (1) and (2) of this section,  
23 it may impose a penalty of up to thirty days' confinement. Penalties  
24 for multiple violations occurring prior to the hearing shall not be  
25 aggregated to exceed thirty days' confinement. Regardless of the  
26 number of times a respondent is brought to court for violations of the  
27 terms of a single disposition order, the combined total number of days  
28 spent by the respondent in detention shall never exceed the maximum  
29 term to which an adult could be sentenced for the underlying offense.

1 (4) If a respondent has been ordered to pay a fine or monetary  
2 penalty and due to a change of circumstance cannot reasonably comply  
3 with the order, the court, upon motion of the respondent, may order  
4 that the unpaid fine or monetary penalty be converted to community  
5 restitution unless the monetary penalty is the crime victim penalty  
6 assessment, which cannot be converted, waived, or otherwise modified,  
7 except for schedule of payment. The number of hours of community  
8 restitution in lieu of a monetary penalty or fine shall be converted at  
9 the rate of the prevailing state minimum wage per hour. The monetary  
10 penalties or fines collected shall be deposited in the county general  
11 fund. A failure to comply with an order under this subsection shall be  
12 deemed a failure to comply with an order of community supervision and  
13 may be proceeded against as provided in this section.

14 (5) When a respondent has willfully violated the terms of a  
15 probation bond, the court may modify, revoke, or retain the probation  
16 bond as provided in RCW 13.40.054.

17 (6)(a) The juvenile court probation officer may move the court to  
18 modify the terms of the order of disposition if:

19 (i) The respondent is not in violation of the terms of the order of  
20 disposition; and

21 (ii) Notice of the motion is sent to the victim if the victim's  
22 contact information is available.

23 (b) The court may modify an order of disposition for good cause  
24 shown, so long as the modification does not result in any increased  
25 sanction or penalty. In determining whether good cause exists, the  
26 court shall consider the best interest of the respondent, the victim,  
27 and the community."

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28 On page 1, line 1 of the title, after "orders;" strike the  
29 remainder of the title and insert "and amending RCW 13.40.200."

EFFECT: Allows the juvenile court probation officer to move the court directly to modify a disposition order if the juvenile is not in violation of the terms of the disposition order. Requires notice of the motion be given to the victim.

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