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**SENATE BILL 5474**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Frame, Trudeau, Kuderer, Lovelett, Nguyen, Saldaña, and C. Wilson

AN ACT Relating to decreasing barriers to successful community participation for individuals involved in the juvenile justice system; amending RCW 6.17.020, 7.68.035, 7.68.120, 10.01.160, 13.40.020, 13.40.060, 13.40.077, 13.40.080, 13.40.127, 13.40.150, 13.40.162, 13.40.165, 13.40.180, 13.40.190, 13.40.200, 13.40.205, 13.40.205, 13.40.210, 13.40.250, 13.40.308, 13.40.510, 13.50.260, 13.50.270, and 43.43.7541; reenacting and amending RCW 13.40.020; adding new sections to chapter 13.40 RCW; creating new sections; repealing RCW 13.40.056, 13.40.085, 13.40.192, 13.40.198, 13.40.610, and 13.40.640; providing contingent effective dates; and providing contingent expiration dates.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) The goal of the juvenile justice system should be to protect public safety by providing meaningful opportunity for rehabilitation. Outstanding legal financial obligations represent a significant obstacle for youth and emerging adults trying to rebuild their lives after involvement with the juvenile justice system. The consequences of legal financial obligations for youth impact their ability to access education, find and keep work, and to remain stably housed – all key indicators of success and statistically important factors in reducing recidivism.

(b) Despite significant reforms, thousands of youth impacted by the juvenile justice system are struggling to pay legal financial obligations and other costs, and very few harmed parties receive the restitution ordered by juvenile courts.

(c) Decades of research in Washington and around the country has found that legal financial obligations fall disproportionately on black, indigenous, low-income, and rural communities and communities of color. These disproportionate harms are unacceptable in any context, but especially well documented in juvenile court. Legal financial obligations are also expensive to collect, an unstable source of government revenue, and undermine trust in courts that may seem to operate as tax collectors. Because juveniles do not have the means to pay, only a small percentage of juvenile restitution is collected and in turn, harmed parties rarely see any compensation. Making people whole should be a guiding principle of any juvenile court system, while acknowledging that society bears some responsibility for harm done by individual young people.

(d) Eliminating juvenile legal financial obligations and creating a community compensation program will better serve harmed parties, increase racial and socioeconomic equity in Washington, improve public safety, and help to support young people and families involved in the juvenile system.

(2) Therefore, the legislature finds and declares that the purpose of this act is to improve public safety by decreasing barriers to successful reentry and rehabilitation amongst youth previously involved in the juvenile justice system.

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

No fine, administrative fee, cost, surcharge, or restitution may be imposed or collected by the court or any agent of the court against any juvenile or a juvenile's parent or guardian, or other person having custody of the juvenile, in connection with any juvenile offender proceeding including, but not limited to, fees for diversion, DNA sampling, or victims' penalty assessments. Parties harmed by juveniles may collect compensation through the community compensation program as provided in section 4 of this act.

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

(1) On or before the effective date of this section, the administrative office of the courts, courts of limited jurisdiction and their clerks, shall ensure that any fine, fee, cost, surcharge, or restitution previously imposed against juveniles and family members by the juvenile court is considered null and void, and uncollectible. The administrative office of the courts shall notify juveniles and families about any waived debt.

(2) On or before July 1, 2023, and in compliance with RCW 43.01.036, the administrative office of the courts shall report to the relevant committees of the legislature the numbers of orders vacated or partially vacated pursuant to this section in each judicial district and the amount of the balances vacated in each judicial district.

(3) On or before July 1, 2023, and annually thereafter, the administrative office of the courts shall in compliance with RCW 43.01.036, report to the relevant committees of the legislature the total amount assessed to and collected from individuals charged in superior court and other courts of limited jurisdiction, in fees, court costs, fines, and restitution. This annual report shall include information about total amounts assessed and collected, disaggregated by the defendants' age, race, gender, legal financial obligation type, and charging court.

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

(1) A community compensation task force is established within the department of labor and industries. The purpose of the task force is to address the elimination of juvenile restitution required by section 2 of this act and the compensation of parties harmed by juveniles. Core considerations for the task force should be reliant on restorative principles and best practices. The task force shall hold its first meeting on or before July 1, 2023. A final implementation plan must be submitted on or before July 1, 2024, to the appropriate committees of the legislature. The final implementation plan must be published and must include:

(a) A description of the decision-making structure recommended by the task force;

(b) Details on the infrastructure of the community compensation program created in this section to compensate parties harmed by juveniles including, but not limited to, how the program shall operate within the department of labor and industries, and an estimate of the administrative cost required to maintain the program including the salaries of any necessary staff;

(c) A process for harmed parties, potentially including those who do not meet the current statutory definition of "victim," to participate in the community compensation program, including details of the application and disbursement process, which must:

(i) Ensure individuals may participate in the compensation program regardless of their legal status;

(ii) Guarantee, to the greatest extent possible, the anonymity of those participating in the compensation program;

(iii) Not require a court order for harmed parties to participate in the compensation program;

(iv) Limit, to the greatest extent possible, the amount of documentation required to participate in the program and the administrative burden on individuals seeking payment;

(v) Consider capping amounts and types of costs that are eligible for compensation; and

(vi) Consider critically the ability of government entities, corporations, insurance companies, and other nonindividual harmed parties to participate in the compensation program with individual harmed parties having priority access;

(d) A process for determining the eligibility of parties who may try to participate in the program. It is the intention of the legislature that the community compensation program be accessible to the broadest possible number of harmed parties, and that participation in the program does not require an adjudication or an order from the court; and

(e) Standards and practices for calculating the amount of compensation individual applicants may receive.

(2) The community compensation task force representatives shall include:

(a) Three people who were ordered to pay juvenile legal financial obligations, either as juveniles or parents;

(b) Three people who were ordered to receive restitution payments from a respondent;

(c) One representative from a statewide coalition focused on legal financial obligations and youth justice;

(d) One representative from a civil society organization focused on legal financial obligation reform;

(e) One member of the Washington state partnership council on juvenile justice;

(f) One public defender specializing in juvenile law;

(g) One juvenile court judge;

(h) One prosecutor specializing in juvenile law;

(i) One county clerk or juvenile court administrator;

(j) One member of the Washington state supreme court minority and justice commission; and

(k) One individual with expertise in restorative justice practices or expertise in community compensation programs.

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

(1) Within funds appropriated for this specific purpose, the community compensation program is created in and will be administered by the department of labor and industries. The program is authorized to receive private contributions and funds from other sources.

(2) Consistent with the recommendations of the community compensation task force established in section 4 of this act, the community compensation program will provide compensation to parties harmed by juveniles.

(3) The department may adopt rules necessary to implement this section.

**Sec.**  RCW 6.17.020 and 2022 c 260 s 5 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the party in whose favor a judgment of a court has been or may be filed or rendered, or the assignee or the current holder thereof, may have an execution, garnishment, or other legal process issued for the collection or enforcement of the judgment at any time within 10 years from entry of the judgment or the filing of the judgment in this state.

(2) After July 23, 1989, a party who obtains a judgment or order of a court or an administrative order entered as defined in RCW 74.20A.020(6) for accrued child support, or the assignee or the current holder thereof, may have an execution, garnishment, or other legal process issued upon that judgment or order at any time within 10 years of the 18th birthday of the youngest child named in the order for whom support is ordered.

(3) After June 9, 1994, a party in whose favor a judgment has been filed as a foreign judgment or rendered pursuant to subsection (1) or (4) of this section, or the assignee or the current holder thereof, may, within 90 days before the expiration of the original 10-year period, apply to the court that rendered the judgment or to the court where the judgment was filed as a foreign judgment for an order granting an additional 10 years during which an execution, garnishment, or other legal process may be issued. If a district court judgment of this state is transcribed to a superior court of this state, the original district court judgment shall not be extended and any petition under this section to extend the judgment that has been transcribed to superior court shall be filed in the superior court within 90 days before the expiration of the 10-year period of the date the transcript of the district court judgment was filed in the superior court of this state. The petitioner shall pay to the court a filing fee equal to the filing fee for filing the first or initial paper in a civil action in the court, except in the case of district court judgments transcribed to superior court, where the filing fee shall be the fee for filing the first or initial paper in a civil action in the superior court where the judgment was transcribed. The order granting the application shall contain an updated judgment summary as provided in RCW 4.64.030. The filing fee required under this subsection shall be included in the judgment summary and shall be a recoverable cost. The application shall be granted as a matter of right, subject to review only for timeliness, factual issues of full or partial satisfaction, or errors in calculating the judgment summary amounts.

(4)(a) A party who obtains a judgment or order for restitution pursuant to a criminal judgment and sentence against an adult defendant, or the assignee or the current holder thereof, may execute, garnish, and/or have legal process issued upon the judgment or order any time within 10 years subsequent to the entry of the judgment and sentence or 10 years following the adult offender's release from total confinement as provided in chapter 9.94A RCW. The clerk of ((~~[the]~~)) the superior court, or a party designated by the clerk, may seek extension under subsection (3) of this section for purposes of collection as allowed under RCW 36.18.190, provided that no filing fee shall be required.

(b) A party who obtains a judgment or order for court-ordered legal financial obligations other than restitution, pursuant to a criminal judgment and sentence against an adult defendant, or the assignee or the current holder thereof, may execute, garnish, and have legal process issued upon the judgment or order any time within 10 years subsequent to the entry of the judgment and sentence or 10 years following the adult offender's release from total confinement as provided in chapter 9.94A RCW. The clerk of ((~~[the]~~)) the superior court, or a party designated by the clerk, may seek extension under subsection (3) of this section for purposes of collection as allowed under RCW 36.18.190, only if the court finds that the offender has the current or likely future ability to pay the nonrestitution legal financial obligations. A person does not have the current ability to pay if the person is indigent as defined in RCW 10.01.160(3). No filing fee shall be required for filing a petition for an extension pursuant to this subsection (4)(b).

(5) "Court" as used in this section includes but is not limited to the United States supreme court, the United States courts of appeals, the United States district courts, the United States bankruptcy courts, the Washington state supreme court, the court of appeals of the state of Washington, superior courts and district courts of the counties of the state of Washington, and courts of other states and jurisdictions from which judgment has been filed in this state under chapter 6.36 or 6.40 RCW.

(6) The perfection of any judgment lien and the priority of that judgment lien on property as established by RCW 6.13.090 and chapter 4.56 RCW is not altered by the extension of the judgment pursuant to the provisions of this section and the lien remains in full force and effect and does not have to be rerecorded after it is extended. Continued perfection of a judgment that has been transcribed to other counties and perfected in those counties may be accomplished after extension of the judgment by filing with the clerk of the other counties where the judgment has been filed either a certified copy of the order extending the judgment or a certified copy of the docket of the matter where the judgment was extended.

(7) Except as ordered in RCW 4.16.020 (2) or (3), chapter 9.94A RCW, or chapter 13.40 RCW, no judgment is enforceable for a period exceeding 20 years from the date of entry in the originating court. Nothing in this section may be interpreted to extend the expiration date of a foreign judgment beyond the expiration date under the laws of the jurisdiction where the judgment originated.

(8) The chapter 261, Laws of 2002 amendments to this section apply to all judgments currently in effect on June 13, 2002, to all judgments extended after June 9, 1994, unless the judgment has been satisfied, vacated, and/or quashed, and to all judgments filed or rendered, or both, after June 13, 2002.

(9) Notwithstanding any provisions of this section, no fees, costs, or surcharges arising out of a juvenile offender proceeding may be charged to a juvenile, or the parent, guardian, or other person having custody of a juvenile.

**Sec.**  RCW 7.68.035 and 2018 c 269 s 19 are each amended to read as follows:

(1)((~~(a)~~)) When any ((~~person~~)) adult is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

((~~(b) When any juvenile is adjudicated of an offense that is a most serious offense as defined in RCW 9.94A.030, or a sex offense under chapter 9A.44 RCW, there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action.~~

~~(c) When any juvenile is adjudicated of an offense which has a victim, and which is not a most serious offense as defined in RCW 9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall order up to seven hours of community restitution, unless the court finds that such an order is not practicable for the offender. This community restitution must be imposed consecutively to any other community restitution the court imposes for the offense.~~))

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.490(2), and 46.09.470(2).

(3) When any ((~~person~~)) adult accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer. Each county shall deposit one hundred percent of the money it receives per case or cause of action under subsection (1) of this section, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and all money it receives under subsection (7) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his or her surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the state general fund.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.50.100 and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section.

**Sec.**  RCW 7.68.120 and 1995 c 33 s 1 are each amended to read as follows:

Any ((~~person~~)) adult who has committed a criminal act which resulted in injury compensated under this chapter may be required to make reimbursement to the department as provided in this section.

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the department by any person found to have committed the criminal act in either a civil or criminal court proceeding in which he or she is a party. If there has been a superior or district court order, or an order of the indeterminate sentence review board or the department of social and health services, as provided in subsection (4) of this section, the debt shall be limited to the amount provided for in the order. A court order shall prevail over any other order. If, in a criminal proceeding, a person has been found to have committed the criminal act that results in the payment of benefits to a victim and the court in the criminal proceeding does not enter a restitution order, the department shall, within one year of imposition of the sentence, petition the court for entry of a restitution order.

(2)(a) The department may issue a notice of debt due and owing to the person found to have committed the criminal act, and shall serve the notice on the person in the manner prescribed for the service of a summons in a civil action or by certified mail. The department shall file the notice of debt due and owing along with proof of service with the superior court of the county where the criminal act took place. The person served the notice shall have thirty days from the date of service to respond to the notice by requesting a hearing in superior court.

(b) If a person served a notice of debt due and owing fails to respond within thirty days, the department may seek a default judgment. Upon entry of a judgment in an action brought pursuant to (a) of this subsection, the clerk shall enter the order in the execution docket. The filing fee shall be added to the amount of the debt indicated in the judgment. The judgment shall become a lien upon all real and personal property of the person named in the judgment as in other civil cases. The judgment shall be subject to execution, garnishment, or other procedures for collection of a judgment.

(3)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a judgment for a debt due and owing has been entered under subsection (2) of this section. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150.

(4) Upon being placed on work release pursuant to chapter 72.65 RCW, or upon release from custody of a state correctional facility on parole, any convicted person who owes a debt to the department as a consequence of a criminal act may have the schedule or amount of payments therefor set as a condition of work release or parole by the department of social and health services or indeterminate sentence review board respectively, subject to modification based on change of circumstances. Such action shall be binding on the department.

(5) Any requirement for payment due and owing the department by a convicted person under this chapter may be waived, modified downward or otherwise adjusted by the department in the interest of justice, the well-being of the victim, and the rehabilitation of the individual.

(6) The department shall not seek payment for a debt due and owing if such action would deprive the victim of the crime giving rise to the claim under this chapter of the benefit of any property to which the victim would be entitled under RCW 26.16.030.

**Sec.**  RCW 10.01.160 and 2022 c 260 s 9 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, the court may require a defendant to pay costs. Costs may be imposed only upon a convicted adult defendant, except for costs imposed upon ((~~a~~)) an adult defendant's entry into a deferred prosecution program, costs imposed upon ((~~a~~)) an adult defendant for pretrial supervision, or costs imposed upon ((~~a~~)) an adult defendant for preparing and serving a warrant for failure to appear.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW or pretrial supervision. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution may not exceed $250. Costs for administering a pretrial supervision other than a pretrial electronic alcohol monitoring program, drug monitoring program, or 24/7 sobriety program may not exceed $150. Costs for preparing and serving a warrant for failure to appear may not exceed $100. Costs of incarceration imposed on a defendant convicted of a misdemeanor or a gross misdemeanor may not exceed the actual cost of incarceration. In no case may the court require the offender to pay more than $100 per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. Costs imposed constitute a judgment against a defendant and survive a dismissal of the underlying action against the defendant. However, if the defendant is acquitted on the underlying action, the costs for preparing and serving a warrant for failure to appear do not survive the acquittal, and the judgment that such costs would otherwise constitute shall be vacated.

(3) The court shall not order a defendant to pay costs if the defendant at the time of sentencing is indigent. In determining the amount and method of payment of costs for defendants who are not indigent, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose. For the purposes of this section, a defendant is "indigent" if the defendant: (a) Meets the criteria defined in RCW 10.101.010(3) (a) through (c); (b) is homeless or mentally ill as defined in RCW 71.24.025; (c) has household income above 125 percent of the federal poverty guidelines and has recurring basic living costs, as defined in RCW 10.101.010, that render the defendant without the financial ability to pay; ((~~or~~)) (d) was a minor at the time the crime occurred; or (e) has other compelling circumstances that exist that demonstrate an inability to pay.

(4) A defendant who has been ordered to pay costs and who has not willfully failed to pay the obligation, as described in RCW 9.94A.6333, 9.94B.040, and 10.01.180, may at any time petition the sentencing court for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs, modify the method of payment under RCW 10.01.170, or convert the unpaid costs to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. Manifest hardship exists where the defendant is indigent as defined in subsection (3) of this section.

(5) Except for direct costs relating to evaluating and reporting to the court, prosecutor, or defense counsel regarding a defendant's competency to stand trial as provided in RCW 10.77.060, this section shall not apply to costs related to medical or mental health treatment or services a defendant receives while in custody of the secretary of the department of social and health services or other governmental units. This section shall not prevent the secretary of the department of social and health services or other governmental units from imposing liability and seeking reimbursement from a defendant committed to an appropriate facility as provided in RCW 10.77.084 while criminal proceedings are stayed. This section shall also not prevent governmental units from imposing liability on defendants for costs related to providing medical or mental health treatment while the defendant is in the governmental unit's custody. Medical or mental health treatment and services a defendant receives at a state hospital or other facility are not a cost of prosecution and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B RCW, and any other applicable statute.

**Sec.**  RCW 13.40.020 and 2021 c 328 s 5 and 2021 c 206 s 3 are each reenacted and amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include ((~~one or more of the following:~~

~~(a) A fine, not to exceed $500;~~

~~(b) Community restitution~~)) community service not to exceed ((~~150~~)) eight hours ((~~of community restitution~~));

(4) "Community ((~~restitution~~)) service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community ((~~restitution~~)) service may be performed through public or private organizations or through work crews, or by attending school, work, therapy, treatment, or other prosocial activities as determined by the judge in consultation with the juvenile;

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

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of their term of confinement residing in the community, outside of department institutions and community facilities;

(b) The department supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race, ethnicity, sexual identity, and gender identity;

(7) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

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

(10) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(11) "Department" means the department of children, youth, and families;

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

(13) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

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

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

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

(17) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

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

(19) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(20) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; or (c) ((~~0-150~~)) 0-8 hours of community ((~~restitution; or (d) $0-$500 fine~~)) service;

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

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

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

(24) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(25) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

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

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

(28) ((~~"Restitution"~~)) "Community compensation" means ((~~financial reimbursement by the offender to the victim, and shall be limited to easily~~)) ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of ((~~the victim's~~)) counseling reasonably related to the offense for a party harmed by a juvenile. ((~~Restitution shall~~)) "Community compensation" does not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to ((~~the victim~~)) parties harmed by juveniles or the offender. All parties harmed by juveniles shall have access to the community compensation program as provided in section 4 of this act;

(29) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of ((~~crime victims~~)) parties harmed by juveniles that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between ((~~the victim~~)) a party harmed by the juvenile, the ((~~offender~~)) juvenile, their families, and relevant community members;

(30) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(31) "Risk assessment tool" means the statistically valid tool used by the department to inform release or placement decisions related to security level, release within the sentencing range, community facility eligibility, community transition services eligibility, and parole. The "risk assessment tool" is used by the department to predict the likelihood of successful reentry and future criminal behavior;

(32) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(33) "Secretary" means the secretary of the department;

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

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

(36) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

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

(38) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

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

(40) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(41) "Youth court" means a diversion unit under the supervision of the juvenile court.

**Sec.**  RCW 13.40.020 and 2021 c 328 s 5 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include ((~~one or more of the following:~~

~~(a) A fine, not to exceed $500;~~

~~(b) Community restitution~~)) community service not to exceed ((~~150~~)) eight hours ((~~of community restitution~~));

(4) "Community ((~~restitution~~)) service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community ((~~restitution~~)) service may be performed through public or private organizations or through work crews, or by attending school, work, therapy, treatment, or other prosocial activities as determined by the judge in consultation with the juvenile;

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

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

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

(9) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(10) "Department" means the department of children, youth, and families;

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

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

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

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

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

(16) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

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

(18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(19) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; or (c) ((~~0-150~~)) 0-8 hours of community ((~~restitution; or (d) $0-$500 fine~~)) service;

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

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

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

(23) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(24) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

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

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

(27) ((~~"Restitution"~~)) "Community compensation" means ((~~financial reimbursement by the offender to the victim, and shall be limited to easily~~)) ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of ((~~the victim's~~)) counseling reasonably related to the offense for a party harmed by a juvenile. ((~~Restitution shall~~)) "Community compensation" does not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to ((~~the victim~~)) parties harmed by juveniles or the offender. All parties harmed by juveniles shall have access to the community compensation program as provided in section 4 of this act;

(28) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of ((~~crime victims~~)) parties harmed by juveniles that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between ((~~the victim~~)) a party harmed by the juvenile, the ((~~offender~~)) juvenile, their families, and relevant community members;

(29) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(30) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(31) "Secretary" means the secretary of the department;

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

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

(34) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

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

(36) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

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

(38) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

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

**Sec.**  RCW 13.40.060 and 2005 c 165 s 1 are each amended to read as follows:

(1) All actions under this chapter shall be commenced and tried in the county where any element of the offense was committed except as otherwise specially provided by statute. In cases in which diversion is provided by statute, venue is in the county in which the juvenile resides or in the county in which any element of the offense was committed.

(2)(a) The court upon motion of any party or upon its own motion may, at any time, transfer a proceeding to another juvenile court when there is reason to believe that an impartial proceeding cannot be held in the county in which the proceeding was begun; and

(b) A court may transfer a proceeding to another juvenile court following disposition for the purposes of supervision and enforcement of the disposition order.

(3) If the court orders a transfer of the proceeding pursuant to subsection (2)(b) of this section:

(a) The case and copies of only those legal and social documents pertaining thereto shall be transferred to the county in which the juvenile resides, without regard to whether or not his or her custodial parent resides there, for supervision and enforcement of the disposition order.

(b) ((~~If any restitution is yet to be determined, the originating court shall transfer the case to the new county with the exception of the restitution. Venue over restitution shall be retained by the originating court for purposes of establishing a restitution order. Once restitution is determined, the originating county shall then transfer venue over modification and enforcement of the restitution to the new county.~~

~~(c)~~)) The court of the receiving county may modify and enforce the disposition order, including restitution.

((~~(d) The clerk of the originating county shall maintain the account receivable in the judicial information system and all payments shall be made to the clerk of the originating county.~~

~~(e) Any collection of the offender legal financial obligation shall be managed by the juvenile probation department of the new county while the offender is under juvenile probation supervision, or by the clerk of the original county at the conclusion of supervision by juvenile probation. The probation department of the new county shall notify the clerk of the originating county when they end supervision of the offender.~~

~~(f) In cases where a civil judgment has already been established, venue may not be transferred to another county.~~))

**Sec.**  RCW 13.40.077 and 1997 c 338 s 18 are each amended to read as follows:

RECOMMENDED PROSECUTING STANDARDS

FOR CHARGING AND PLEA DISPOSITIONS

INTRODUCTION: These standards are intended solely for the guidance of prosecutors in the state of Washington. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state.

Evidentiary sufficiency.

(1) Decision not to prosecute.

STANDARD: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question, or would result in decreased respect for the law. The decision not to prosecute or divert shall not be influenced by the race, gender, religion, or creed of the suspect.

GUIDELINES/COMMENTARY:

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years;

(ii) Most members of society act as if it were no longer in existence;

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimis Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. The reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question, or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) ((~~Victim~~)) Party Harmed By Juvenile Request - It may be proper to decline to charge because the ((~~victim~~)) party harmed by the juvenile requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the ((~~victim~~)) party harmed by the juvenile has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the ((~~victim's~~)) request of the party harmed by the juvenile is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification

The prosecutor is encouraged to notify the ((~~victim~~)) party harmed by the juvenile, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be proved under RCW 13.40.160(4).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

The categorization of crimes for these charging standards shall be the same as found in RCW 9.94A.411(2).

The decision to prosecute or use diversion shall not be influenced by the race, gender, religion, or creed of the respondent.

(3) Selection of Charges/Degree of Charge

(a) The prosecutor should file charges which adequately describe the nature of the respondent's conduct. Other offenses may be charged only if they are necessary to ensure that the charges((~~:~~

~~(i) Will~~)) will significantly enhance the strength of the state's case at trial((~~; or~~

~~(ii) Will result in restitution to all victims~~)).

(b) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(i) Charging a higher degree;

(ii) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a respondent's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(4) Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

(a) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;

(b) The completion of necessary laboratory tests; and

(c) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

(5) Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(a) Probable cause exists to believe the suspect is guilty; and

(b) The suspect presents a danger to the community or is likely to flee if not apprehended; or

(c) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(6) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(a) Polygraph testing;

(b) Hypnosis;

(c) Electronic surveillance;

(d) Use of informants.

(7) Prefiling Discussions with Defendant

Discussions with the defendant or his or her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(8) Plea dispositions:

STANDARD

(a) Except as provided in subsection (2) of this section, a respondent will normally be expected to plead guilty to the charge or charges which adequately describe the nature of his or her criminal conduct or go to trial.

(b) In certain circumstances, a plea agreement with a respondent in exchange for a plea of guilty to a charge or charges that may not fully describe the nature of his or her criminal conduct may be necessary and in the public interest. Such situations may include the following:

(i) Evidentiary problems which make conviction of the original charges doubtful;

(ii) The respondent's willingness to cooperate in the investigation or prosecution of others whose criminal conduct is more serious or represents a greater public threat;

(iii) A request by the ((~~victim~~)) party harmed by the juvenile when it is not the result of pressure from the respondent;

(iv) The discovery of facts which mitigate the seriousness of the respondent's conduct;

(v) The correction of errors in the initial charging decision;

(vi) The respondent's history with respect to criminal activity;

(vii) The nature and seriousness of the offense or offenses charged;

(viii) The probable effect of witnesses.

(c) No plea agreement shall be influenced by the race, gender, religion, or creed of the respondent. This includes but is not limited to the prosecutor's decision to utilize such disposition alternatives as the Special Sex Offender Disposition Alternative, the Chemical Dependency Disposition Alternative, and manifest injustice.

(9) Disposition recommendations:

STANDARD

The prosecutor may reach an agreement regarding disposition recommendations.

The prosecutor shall not agree to withhold relevant information from the court concerning the plea agreement.

**Sec.**  RCW 13.40.080 and 2022 c 34 s 1 are each amended to read as follows:

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

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

((~~(a)~~)) (i) Community ((~~restitution~~)) service not to exceed ((~~one hundred fifty~~)) eight hours((~~, not to be performed during school hours if the juvenile is attending school~~));

((~~(b) Restitution limited to the amount of actual loss incurred by any victim, excluding restitution owed to any insurance provider under Title 48 RCW;~~

~~(c)~~)) (ii) Attendance at up to ten hours of counseling and/or up to twenty hours of positive youth development, educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; ((~~victim~~)) harmed party awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. If an assessment identifies mental health or chemical dependency needs, a youth may access up to thirty hours of counseling. The counseling sessions may include services demonstrated to improve behavioral health and reduce recidivism. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, a physician, a counselor, a school, or a treatment provider, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to thirty hours of counseling and/or up to twenty hours of educational or informational sessions;

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

((~~(e)~~)) (iv) Upon request of any ((~~victim~~)) party harmed by a juvenile or witness, requirements to refrain from any contact with ((~~victims~~)) parties harmed by or witnesses of offenses committed by the juvenile.

(b) Parties harmed by the offenses committed by a juvenile are eligible to collect compensation through the community compensation program, as provided in section 4 of this act.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community ((~~restitution~~)) service to be performed ((~~and restitution to be paid by a juvenile who has entered into a diversion agreement~~)), the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian. To the extent possible, the court officer shall advise the ((~~victims of~~)) parties harmed by the juvenile offender of the diversion process, offer ((~~victim~~)) impact letter forms and ((~~restitution claim forms~~)) instructions for collecting compensation through the community compensation program as provided in section 4 of this act, and involve members of the community. Such members of the community may meet with the juvenile and may advise the court officer as to the terms of the diversion agreement and may supervise the juvenile in carrying out its terms.

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

(b) If additional time is necessary for the juvenile to complete the terms of the agreement ((~~or restitution to a victim~~)), the time period limitations of this subsection may be extended by an additional six months at the request of the juvenile.

(c) ((~~If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of a civil order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.~~

~~(d)~~)) A diversion agreement may be completed by the juvenile any time prior to an order terminating the agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

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

(10) The diversion unit may refer a juvenile to a restorative justice program, community-based counseling, or treatment programs.

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

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(8). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversion unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

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

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

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

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

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

(e) The facts of the alleged offense.

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

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

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

(16) ((~~If restitution required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert unpaid restitution into community restitution. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.~~)) A juvenile, or the parent, guardian, or other person having custody of the juvenile shall not be required to pay the cost of any program or treatment ordered by the court under this section.

**Sec.**  RCW 13.40.127 and 2016 c 136 s 3 are each amended to read as follows:

(1) A juvenile is eligible for deferred disposition unless he or she:

(a) Is charged with a sex or violent offense;

(b) Has a criminal history which includes any felony;

(c) Has a prior deferred disposition or deferred adjudication; or

(d) Has two or more adjudications.

(2) The juvenile court may, upon motion at least fourteen days before commencement of trial and, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty. In all cases where the juvenile is eligible for a deferred disposition, there shall be a strong presumption that the deferred disposition will be granted. The court may waive the fourteen-day period anytime before the commencement of trial for good cause.

(3) Any juvenile who agrees to a deferral of disposition shall:

(a) Stipulate to the admissibility of the facts contained in the written police report;

(b) Acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition if the juvenile fails to comply with terms of supervision;

(c) Waive the following rights to: (i) A speedy disposition; and (ii) call and confront witnesses; and

(d) Acknowledge the direct consequences of being found guilty and the direct consequences that will happen if an order of disposition is entered.

The adjudicatory hearing shall be limited to a reading of the court's record.

(4) Following the stipulation, acknowledgment, waiver, and entry of a finding or plea of guilt, the court shall defer entry of an order of disposition of the juvenile.

(5) Any juvenile granted a deferral of disposition under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate including posting a probation bond. ((~~Payment of restitution under RCW 13.40.190 shall be a condition of community supervision under this section.~~))

The court may require a juvenile offender convicted of animal cruelty in the first degree to submit to a mental health evaluation to determine if the offender would benefit from treatment and such intervention would promote the safety of the community. After consideration of the results of the evaluation, as a condition of community supervision, the court may order the offender to attend treatment to address issues pertinent to the offense.

The court may require the juvenile to undergo a mental health or substance abuse assessment, or both. If the assessment identifies a need for treatment, conditions of supervision may include treatment for the assessed need that has been demonstrated to improve behavioral health and reduce recidivism.

The court shall require a juvenile granted a deferral of disposition for unlawful possession of a firearm in violation of RCW 9.41.040 to participate in a qualifying program as described in RCW 13.40.193(2)(b), when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(6) A parent who signed for a probation bond has the right to notify the counselor if the juvenile fails to comply with the bond or conditions of supervision. The counselor shall notify the court and surety of any failure to comply. A surety shall notify the court of the juvenile's failure to comply with the probation bond. The state shall bear the burden to prove, by a preponderance of the evidence, that the juvenile has failed to comply with the terms of community supervision.

(7)(a) Anytime prior to the conclusion of the period of supervision, the prosecutor or the juvenile's juvenile court community supervision counselor may file a motion with the court requesting the court revoke the deferred disposition based on the juvenile's lack of compliance or treat the juvenile's lack of compliance as a violation pursuant to RCW 13.40.200.

(b) If the court finds the juvenile failed to comply with the terms of the deferred disposition, the court may:

(i) Revoke the deferred disposition and enter an order of disposition; or

(ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

(8) At any time following deferral of disposition the court may, following a hearing, continue supervision for an additional one-year period for good cause.

(9)(a) At the conclusion of the period of supervision, the court shall determine whether the juvenile is entitled to dismissal of the deferred disposition only when the court finds:

(i) The deferred disposition has not been previously revoked;

(ii) The juvenile has completed the terms of supervision; and

(iii) There are no pending motions concerning lack of compliance pursuant to subsection (7) of this section((~~; and~~

~~(iv) The juvenile has either paid the full amount of restitution, or, made a good faith effort to pay the full amount of restitution during the period of supervision~~)).

(b) If the court finds the juvenile is entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the juvenile's conviction shall be vacated and the court shall dismiss the case with prejudice, except that a conviction under RCW 16.52.205 shall not be vacated. ((~~Whenever a case is dismissed with restitution still owing, the court shall enter a restitution order pursuant to RCW 7.80.130 for any unpaid restitution. Jurisdiction to enforce payment and modify terms of the restitution order shall be the same as those set forth in RCW 7.80.130.~~))

(c) If the court finds the juvenile is not entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the court shall revoke the deferred disposition and enter an order of disposition. A deferred disposition shall remain a conviction unless the case is dismissed and the conviction is vacated pursuant to (b) of this subsection or sealed pursuant to RCW 13.50.260.

(10)(a)(i) Any time the court vacates a conviction pursuant to subsection (9) of this section, ((~~if the juvenile is eighteen years of age or older and the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW has been paid,~~)) the court shall enter a written order sealing the case.

(ii) Any time the court vacates a conviction pursuant to subsection (9) of this section, if the juvenile is not eighteen years of age or older ((~~and full restitution ordered has been paid~~)), the court shall schedule an administrative sealing hearing to take place no later than thirty days after the respondent's eighteenth birthday, at which time the court shall enter a written order sealing the case. The respondent's presence at the administrative sealing hearing is not required.

(iii) Any deferred disposition vacated prior to June 7, 2012, is not subject to sealing under this subsection.

(b) Nothing in this subsection shall preclude a juvenile from petitioning the court to have the records of his or her deferred dispositions sealed under RCW 13.50.260.

(c) Records sealed under this provision shall have the same legal status as records sealed under RCW 13.50.260.

**Sec.**  RCW 13.40.150 and 1998 c 86 s 1 are each amended to read as follows:

(1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available, but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

(2) For purposes of disposition:

(a) Violations which are current offenses count as misdemeanors;

(b) Violations may not count as part of the offender's criminal history;

(c) In no event may a disposition for a violation include confinement.

(3) Before entering a dispositional order as to a respondent found to have committed an offense, the court shall hold a disposition hearing, at which the court shall:

(a) Consider the facts supporting the allegations of criminal conduct by the respondent;

(b) Consider information and arguments offered by parties and their counsel;

(c) Consider any predisposition reports;

(d) Consult with the respondent's parent, guardian, or custodian on the appropriateness of dispositional options under consideration and afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

(e) Allow the ((~~victim~~)) party harmed by the juvenile or a representative of the ((~~victim~~)) party harmed by the juvenile and an investigative law enforcement officer to speak;

(f) ((~~Determine the amount of restitution owing to the victim, if any, or set a hearing for a later date not to exceed one hundred eighty days from the date of the disposition hearing to determine the amount, except that the court may continue the hearing beyond the one hundred eighty days for good cause;~~

~~(g)~~)) Determine the respondent's offender score;

((~~(h)~~)) (g) Consider whether or not any of the following mitigating factors exist:

(i) The respondent's conduct neither caused nor threatened serious bodily injury or the respondent did not contemplate that his or her conduct would cause or threaten serious bodily injury;

(ii) The respondent acted under strong and immediate provocation;

(iii) The respondent was suffering from a mental or physical condition that significantly reduced his or her culpability for the offense though failing to establish a defense;

(iv) Prior to his or her detection, the respondent compensated or made a good faith attempt to compensate the ((~~victim~~)) harmed party for the injury or loss sustained; and

(v) There has been at least one year between the respondent's current offense and any prior criminal offense;

((~~(i)~~)) (h) Consider whether or not any of the following aggravating factors exist:

(i) In the commission of the offense, or in flight therefrom, the respondent inflicted or attempted to inflict serious bodily injury to another;

(ii) The offense was committed in an especially heinous, cruel, or depraved manner;

(iii) The ((~~victim or victims~~)) party or parties harmed by the juvenile were particularly vulnerable;

(iv) The respondent has a recent criminal history or has failed to comply with conditions of a recent dispositional order or diversion agreement;

(v) The current offense included a finding of sexual motivation pursuant to RCW 13.40.135;

(vi) The respondent was the leader of a criminal enterprise involving several persons;

(vii) There are other complaints which have resulted in diversion or a finding or plea of guilty but which are not included as criminal history; and

(viii) The standard range disposition is clearly too lenient considering the seriousness of the juvenile's prior adjudications.

(4) The following factors may not be considered in determining the punishment to be imposed:

(a) The sex of the respondent;

(b) The race or color of the respondent or the respondent's family;

(c) The creed or religion of the respondent or the respondent's family;

(d) The economic or social class of the respondent or the respondent's family; and

(e) Factors indicating that the respondent may be or is a dependent child within the meaning of this chapter.

(5) A court may not commit a juvenile to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community.

**Sec.**  RCW 13.40.162 and 2020 c 249 s 1 are each amended to read as follows:

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

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

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

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

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

(i) The respondent's version of the facts and the official version of the facts;

(ii) The respondent's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The respondent's social, educational, and employment situation;

(v) Other evaluation measures used.

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

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

(i) The frequency and type of contact between the offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

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

(3) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the ((~~victim's~~)) harmed party's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least two years.

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

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

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

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

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

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

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

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

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

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

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

(b) The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district.

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

(7) For offenders required to register under RCW 9A.44.130, at the end of the supervision ordered under this disposition alternative, there is a presumption that the offender is sufficiently rehabilitated to warrant removal from the central registry of sex offenders. The court shall relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal and may consider the following factors:

(a) The nature of the offense committed, including the number of ((~~victims~~)) parties harmed by the juvenile and the length of the offense history;

(b) Any subsequent criminal history of the juvenile;

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

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

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

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

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

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

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

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

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

(l) Any input of the ((~~victim~~)) harmed party; and

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

(8)(a) The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

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

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

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

(9)(a) If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days confinement for violating conditions of the disposition, except that an offender's failure to perform community service may never be the sole reason to impose an order of confinement.

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

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

(10) For purposes of this section, ((~~"victim"~~)) "harmed party" or "party harmed by a juvenile" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. ((~~"Victim"~~)) "Harmed party" or "party harmed by a juvenile" may also include a known parent or guardian of a ((~~victim~~)) harmed party who is a minor child unless the parent or guardian is the perpetrator of the offense.

(11) The respondent or the parent, guardian, or other person having custody of the respondent shall not be required to pay the cost of any evaluation or treatment of the respondent ordered by the court under this section.

(12) A disposition entered under this section is not appealable under RCW 13.40.230.

**Sec.**  RCW 13.40.165 and 2019 c 325 s 5007 are each amended to read as follows:

(1) The purpose of this disposition alternative is to ensure that successful treatment options to reduce recidivism are available to eligible youth, pursuant to RCW 71.24.615. It is also the purpose of the disposition alternative to assure that minors in need of substance use disorder, mental health, and/or co-occurring disorder treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and residential treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide these services to minors shall jointly plan and deliver these services. It is also the purpose of the disposition alternative to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment. The mental health, substance abuse, and co-occurring disorder treatment providers shall, to the extent possible, offer services that involve minors' parents, guardians, and family.

(2) The court must consider eligibility for the substance use disorder or mental health disposition alternative when a juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, other than a first time B+ offense under chapter 69.50 RCW. The court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent, substance abusing, or has significant mental health or co-occurring disorders may order an examination by a substance use disorder counselor from a substance use disorder treatment facility approved under chapter 70.96A RCW or a mental health professional as defined in chapter 71.34 RCW to determine if the youth is chemically dependent, substance abusing, or suffers from significant mental health or co-occurring disorders. ((~~The offender shall pay the cost of any examination ordered under this subsection unless the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.~~)) The state shall pay the cost of any examination ordered under this subsection unless third-party insurance coverage is available.

(3) The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of drug-alcohol problems, mental health diagnoses, previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

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

(a) Whether inpatient and/or outpatient treatment is recommended;

(b) Availability of appropriate treatment;

(c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(d) Anticipated length of treatment; and

(e) Recommended crime-related prohibitions.

(5) The court on its own motion may order, or on a motion by the state or the respondent shall order, a second examination. The evaluator shall be selected by the party making the motion. The requesting party shall pay the cost of any examination ordered under this subsection unless the requesting party is the offender ((~~and the court finds that the offender is indigent and no third party insurance coverage is available~~)), in which case the state shall pay the cost if no third-party insurance coverage is available.

(6)(a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this disposition alternative and consider the ((~~victim's~~)) harmed party's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this disposition alternative is appropriate, then the court shall impose the standard range for the offense, or if the court concludes, and enters reasons for its conclusion, that such disposition would effectuate a manifest injustice, the court shall impose a disposition above the standard range as indicated in option D of RCW 13.40.0357 if the disposition is an increase from the standard range and the confinement of the offender does not exceed a maximum of fifty-two weeks, suspend execution of the disposition, and place the offender on community supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol, mental health, or co-occurring disorder treatment and/or inpatient mental health or drug/alcohol treatment. The court shall only order inpatient treatment under this section if a funded bed is available. If the inpatient treatment is longer than ninety days, the court shall hold a review hearing every thirty days beyond the initial ninety days. The respondent may appear telephonically at these review hearings if in compliance with treatment. As a condition of the suspended disposition, the court may impose conditions of community supervision and other sanctions, including up to thirty days of confinement((~~, one hundred fifty~~)) and eight hours of community ((~~restitution, and payment of legal financial obligations and restitution~~)) service.

(7) The mental health/co-occurring disorder/drug/alcohol treatment provider shall submit monthly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may impose sanctions pursuant to RCW 13.40.200 or revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(8) For purposes of this section, ((~~"victim"~~)) "harmed party" or "party harmed by a juvenile" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. ((~~"Victim"~~)) "Harmed party" or "party harmed by a juvenile" may also include a known parent or guardian of a ((~~victim~~)) harmed party who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

(11) A disposition under this section is not appealable under RCW 13.40.230.

(12) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health, substance use disorder, and/or co-occurring disorder evaluations, treatment, and costs of supervision required under this section shall be paid by the health care authority.

(13) A juvenile, or the parent, guardian, or other person having custody of the juvenile shall not be required to pay the cost of any evaluation or treatment ordered by the court under this section.

**Sec.**  RCW 13.40.180 and 2012 c 177 s 3 are each amended to read as follows:

(1) Where a disposition in a single disposition order is imposed on a youth for two or more offenses, the terms shall run consecutively, subject to the following limitations:

(a) Where the offenses were committed through a single act or omission, omission, or through an act or omission which in itself constituted one of the offenses and also was an element of the other, the aggregate of all the terms shall not exceed one hundred fifty percent of the term imposed for the most serious offense;

(b) The aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense; and

(c) The aggregate of all consecutive terms of community supervision shall not exceed two years in length, or require any payment of ((~~more than two hundred dollars in~~)) fines or the performance of more than ((~~two hundred~~)) eight hours of community ((~~restitution~~)) service.

(2) Where disposition in separate disposition orders is imposed on a youth, the periods of community supervision contained in separate orders, if any, shall run concurrently. All other terms contained in separate disposition orders shall run consecutively.

**Sec.**  RCW 13.40.190 and 2015 c 265 s 6 are each amended to read as follows:

(1)((~~(a)~~)) In its dispositional order, the court ((~~shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted.~~

~~(b) Restitution may include the costs of counseling reasonably related to the offense.~~

~~(c) The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter.~~

~~(d) The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. If the court determines that a juvenile has insufficient funds to pay and upon agreement of the victim, the court~~)) may order performance of ((~~a number of~~)) no more than eight hours of community ((~~restitution in lieu of monetary penalty, at the rate of the then state minimum wage per hour~~)) service. ((~~The court shall allow the victim to determine the nature of the community restitution to be completed when it is practicable and appropriate to do so. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday and, during this period, the restitution portion of the dispositional order may be modified as to amount, terms, and conditions at any time. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of restitution for an additional ten years. If the court grants a respondent's petition pursuant to RCW 13.50.260, the court's jurisdiction under this subsection shall terminate.~~

~~(e) Nothing in this section shall prevent a respondent from petitioning the court pursuant to RCW 13.50.260 if the respondent has paid the full restitution amount stated in the court's order and has met the statutory criteria.~~

~~(f) If the respondent participated in the crime with another person or other persons, the court may either order joint and several restitution or may divide restitution equally among the respondents. In determining whether restitution should be joint and several or equally divided, the court shall consider the interest and circumstances of the victim or victims, the circumstances of the respondents, and the interest of justice.~~

~~(g) At any time, the court may determine that the respondent is not required to pay, or may relieve the respondent of the requirement to pay, full or partial restitution to any insurance provider authorized under Title 48 RCW if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution to the insurance provider.~~))

(2) ((~~Regardless of the provisions of subsection (1) of this section, the~~)) The court shall ((~~order restitution in all cases where the victim is~~)) notify persons who have suffered loss or damage as a result of the offense committed by the respondent that they may be entitled to ((~~benefits under the crime victims' compensation act, chapter 7.68 RCW~~)) apply for compensation as provided in section 4 of this act. ((~~If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.~~

~~(3) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. The county clerk shall make restitution disbursements to victims prior to payments to any insurance provider under Title 48 RCW.~~

~~(4) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.~~

~~(5) A respondent under obligation to pay restitution may petition the court for modification of the restitution order for good cause shown, including inability to pay.~~))

**Sec.**  RCW 13.40.200 and 2004 c 120 s 7 are each amended to read as follows:

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

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

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

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

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

**Sec.**  RCW 13.40.205 and 2019 c 468 s 1 are each amended to read as follows:

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all preminimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period of the leave, and the identity of an appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the ((~~juvenile's victim~~)) party harmed by the juvenile or the ((~~victim's~~)) harmed party's immediate family, the secretary shall give notice of any leave to the ((~~victim~~)) harmed party or the ((~~victim's~~)) harmed party's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Notwithstanding the provisions of this section, a juvenile placed in minimum security status may participate in work, educational, community ((~~restitution~~)) service, or treatment programs in the community up to ((~~twelve~~)) eight hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence. This authorization may be increased to more than ((~~twelve~~)) eight hours a day up to sixteen hours a day if approved by the secretary and operated within the department's appropriations.

(11) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by RCW 13.40.215.

**Sec.**  RCW 13.40.205 and 2021 c 206 s 4 are each amended to read as follows:

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all preminimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period of the leave, and the identity of an appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the ((~~juvenile's victim~~)) party harmed by the juvenile or the ((~~victim's~~)) harmed party's immediate family, the secretary shall give notice of any leave or community transition services under subsection (13) of this section to the ((~~victim~~)) harmed party or the ((~~victim's~~)) harmed party's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan or community transition services under subsection (13) of this section may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Community transition services is an electronic monitoring program as that term is used in RCW 9A.76.130.

(11) Notwithstanding the provisions of this section, a juvenile placed in minimum security status or in community transition services under subsection (13) of this section may participate in work, educational, community ((~~restitution~~)) service, or treatment programs in the community up to ((~~twelve~~)) eight hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence. This authorization may be increased to more than ((~~twelve~~)) eight hours a day up to sixteen hours a day if approved by the secretary and operated within the department's appropriations.

(12) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by RCW 13.40.215.

(13)(a) The department may require a person in its custody to serve the remainder of the person's sentence in community transition services if the department determines that such placement is in the best interest of the person and the community using the risk assessment tool and considering the availability of appropriate placements, treatment, and programming. The person shall not be required to pay for community transition services. The department's determination described under this subsection must include consideration of the person's behavior while in confinement and any disciplinary considerations. The department shall establish appropriate conditions the person must comply with to remain in community transition services. A person must have served 60 percent of their minimum term of confinement and no less than 15 weeks of total confinement including time spent in detention prior to sentencing or the entry of a dispositional order before becoming eligible for community transition services under the authority and supervision of the department.

(b) A person placed in community transition services under this section must have access to appropriate treatment and programming as determined by the department, including but not limited to:

(i) Behavioral health treatment;

(ii) Independent living;

(iii) Employment;

(iv) Education;

(v) Connections to family and natural supports; and

(vi) Community connections.

(c) Community transition services under this section is in lieu of confinement in an institution or community facility operated by the department, and will not fulfill any period of parole required under RCW 13.40.210.

(d) If a person placed in community transition services under this section violates a condition of participation in the community transition services program, or if the department determines that placement in the program is no longer in the best interests of the person or community, the person may be returned to an institution operated by the department at the department's discretion.

(e) The following persons are not eligible for community transition services under this section:

(i) Persons with pending charges or warrants;

(ii) Persons who will be transferred to the department of corrections, who are in the custody of the department of corrections, or who are under the supervision of the department of corrections;

(iii) Persons who were adjudicated or convicted of the crime of murder in the first or second degree;

(iv) Persons who meet the definition of a "persistent offender" as defined under RCW 9.94A.030;

(v) Level III sex offenders; and

(vi) Persons requiring out-of-state placement.

(14) The department shall design, or contract for the design, and implement a risk assessment tool. The tool must be designed to limit bias related to race, ethnicity, gender, and age. The risk assessment tool must be certified at least every three years based on current academic standards for assessment validation, and can be certified by the office of innovation, alignment, and accountability or an outside researcher.

**Sec.**  RCW 13.40.210 and 2017 3rd sp.s. c 6 s 609 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section and for offenders who receive a juvenile residential commitment sentence for theft of a motor vehicle, possession of a stolen motor vehicle, or taking a motor vehicle without permission 1. A juvenile adjudicated for unlawful possession of a firearm, possession of a stolen firearm, theft of a firearm, or drive-by shooting may participate in aggression replacement training, functional family therapy, or functional family parole aftercare if the juvenile meets eligibility requirements for these services. The decision to place an offender in an evidence-based parole program shall be based on an assessment by the department of the offender's risk for reoffending upon release and an assessment of the ongoing treatment needs of the juvenile. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; and (xi) ((~~pay any court-ordered fines or restitution; and (xii)~~)) perform community ((~~restitution~~)) service. Community ((~~restitution~~)) service for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community ((~~restitution~~)) service may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) ((~~and~~)), (vi), and (vii) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; ((~~and~~)) (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320; and (vii) the secretary may not order confinement for the sole reason that the offender failed to perform community service.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.128 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of parole conditions during the parole period shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

(c) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of children, youth, and families shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

(7) A juvenile, or the parent, guardian, or other person having custody of the juvenile shall not be required to pay the cost of any program or treatment ordered by the court under this section.

**Sec.**  RCW 13.40.250 and 2020 c 191 s 5 are each amended to read as follows:

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

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

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

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

(4) Traffic infractions, transit infractions, or civil infractions referred to a youth court pursuant to this section are subject to the conditions imposed by RCW 13.40.630.

(5) A diversion agreement entered into by a juvenile referred pursuant to this section may include a requirement that the juvenile participate in a district or municipal youth court program under chapter 3.72 RCW, provided the youth court program accepts the referral and only subject to the following conditions:

(a) Upon entering the diversion agreement, the juvenile shall be referred to the youth court program, the completion of which shall be the only condition of the diversion agreement;

(b) The juvenile shall not serve more than ((~~thirty~~)) eight hours of participation in the youth court program;

(c) Other than filing a petition for termination of the diversion agreement in juvenile court, nothing concerning the juvenile's participation in the youth court program shall be filed in any public court file concerning the juvenile's participation or presence in the youth court program. The only written record of participation shall be the diversion agreement entered into with the juvenile court, subject to confidentiality under chapter 13.50 RCW. No court cause number shall be assigned to the case against the juvenile while he or she participates in the youth court program. The proceedings in the youth court program shall be on open record and may be recorded if necessary;

(d) Nothing concerning the alleged offense or the diversion shall be reported to the department of licensing;

(e) The youth court program may refer the juvenile back to the juvenile diversion unit for termination of the diversion agreement due to noncompliance at any time prior to completion; and

(f) The juvenile court diversion unit shall maintain primary jurisdiction over supervision of the juvenile during his or her participation in the youth court program. The youth court shall notify the diversion unit upon completion of the youth court program and the diversion agreement shall be complete.

**Sec.**  RCW 13.40.308 and 2016 c 136 s 4 are each amended to read as follows:

(1) If a respondent is adjudicated of taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070, the court shall impose the following minimum sentence((~~, in addition to any restitution the court may order payable to the victim~~)):

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than three months of community supervision, ((~~forty-five~~)) eight hours of community ((~~restitution~~)) service, and a requirement that the juvenile remain at home such that the juvenile is confined to a private residence for no less than five days. The juvenile may be subject to electronic monitoring, at no cost to the juvenile or the juvenile's parents or guardians, where available. If the juvenile is enrolled in school, the confinement shall be served on nonschool days;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes six months of community supervision, no less than ten days of detention, and ((~~ninety~~)) eight hours of community ((~~restitution~~)) service; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks commitment to the juvenile rehabilitation administration, four months of parole supervision, and ((~~ninety~~)) eight hours of community ((~~restitution~~)) service.

(2) If a respondent is adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen vehicle as defined under RCW 9A.56.068, the court shall impose the following minimum sentence((~~, in addition to any restitution the court may order payable to the victim~~)):

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than three months of community supervision and either ((~~ninety~~)) eight hours of community ((~~restitution~~)) service or a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than five days, or a combination thereof that includes a minimum of three days home confinement and a minimum of ((~~forty~~)) eight hours of community ((~~restitution~~)) service. The juvenile may be subject to electronic monitoring, at no cost to the juvenile or the juvenile's parents or guardians, where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than six months of community supervision, no less than ten days of detention, and ((~~ninety~~)) eight hours of community ((~~restitution~~)) service; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks commitment to the juvenile rehabilitation administration, four months of parole supervision, and ((~~ninety~~)) eight hours of community ((~~restitution~~)) service.

(3) If a respondent is adjudicated of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, the court shall impose a standard range as follows:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes three months of community supervision, ((~~fifteen~~)) eight hours of community ((~~restitution~~)) service, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than one day. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring, at no cost to the juvenile or the juvenile's parents or guardians, where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than one day of detention, three months of community supervision, ((~~thirty~~)) eight hours of community ((~~restitution~~)) service, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than two days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring, at no cost to the juvenile or the juvenile's parents or guardians, where available; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than three days of detention, six months of community supervision, ((~~forty-five~~)) eight hours of community ((~~restitution~~)) service, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than seven days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring, at no cost to the juvenile or the juvenile's parents or guardians, where available.

**Sec.**  RCW 13.40.510 and 2019 c 461 s 1 are each amended to read as follows:

(1) In order to receive funds under RCW 13.40.500 through 13.40.540, local governments may, through their respective agencies that administer funding for consolidated juvenile services, submit proposals that establish community juvenile accountability programs within their communities. These proposals must be submitted to the department for certification.

(2) The proposals must:

(a) Demonstrate that the proposals were developed with the input of the local law and justice councils established under RCW 72.09.300;

(b) Describe how local community groups or members are involved in the implementation of the programs funded under RCW 13.40.500 through 13.40.540;

(c) Include a description of how the grant funds will contribute to the expected outcomes of the program and the reduction of youth violence and juvenile crime in their community. Data approaches are not required to be replicated if the networks have information that addresses risks in the community for juvenile offenders.

(3) A local government receiving a grant under this section shall agree that any funds received must be used efficiently to encourage the use of community-based programs that reduce the reliance on secure confinement as the sole means of holding juvenile offenders accountable for their crimes. The local government shall also agree to account for the expenditure of all funds received under the grant and to submit to audits for compliance with the grant criteria developed under RCW 13.40.520.

(4) The department, in consultation with the Washington association of juvenile court administrators and the state law and justice advisory council, shall establish guidelines for programs that may be funded under RCW 13.40.500 through 13.40.540. The guidelines must:

(a) Target referred and diverted youth, as well as adjudicated juvenile offenders;

(b) Include assessment methods to determine services, programs, and intervention strategies most likely to change behaviors and norms of juvenile offenders;

(c) Provide maximum structured supervision in the community. Programs should use natural surveillance and community guardians such as employers, relatives, teachers, clergy, and community mentors to the greatest extent possible;

(d) Promote good work ethic values and educational skills and competencies necessary for the juvenile offender to function effectively and positively in the community;

(e) Maximize the efficient delivery of treatment services aimed at reducing risk factors associated with the commission of juvenile offenses;

(f) Maximize the reintegration of the juvenile offender into the community upon release from confinement;

(g) Maximize the juvenile offender's opportunities to make full ((~~restitution to the victims and~~)) amends to the community;

(h) Support and encourage increased court discretion in imposing community-based intervention strategies;

(i) Be compatible with research that shows which prevention and early intervention strategies work with juvenile offenders;

(j) Be outcome-based in that it describes what outcomes will be achieved or what outcomes have already been achieved;

(k) Include an evaluation component; and

(l) Recognize the diversity of local needs.

(5) The state law and justice advisory council may provide support and technical assistance to local governments for training and education regarding community-based prevention and intervention strategies.

(6) For purposes of this section and RCW 13.40.541 and 13.40.511, "referred youth" means a youth who:

(a) Was contacted by a law enforcement officer and the law enforcement officer has probable cause to believe that he or she has committed a crime;

(b) Was referred to a program that allows youth to enter before being diverted or charged with a juvenile offense; and

(c) Would have been diverted or charged with a juvenile offense, if not for the program to which he or she was referred.

**Sec.**  RCW 13.50.260 and 2020 c 184 s 1 are each amended to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection. Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. The juvenile respondent's presence is not required at any administrative sealing hearing.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated end date of a respondent's probation, if ordered;

(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) The court shall not schedule an administrative sealing hearing at the disposition and no administrative sealing hearing shall occur if one of the offenses for which the court has entered a disposition is at the time of commission of the offense:

(i) A most serious offense, as defined in RCW 9.94A.030;

(ii) A sex offense under chapter 9A.44 RCW; or

(iii) A drug offense, as defined in RCW 9.94A.030.

(d) At the time of the scheduled administrative sealing hearing, the court shall enter a written order sealing the respondent's juvenile court record pursuant to this subsection if the court finds by a preponderance of the evidence that the respondent is no longer on supervision for the case being considered for sealing ((~~and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage~~)). In determining whether the respondent is on supervision ((~~or owes restitution~~)), the court shall take judicial notice of court records, including records of the county clerk, and, if necessary, sworn testimony from a representative of the juvenile department.

(e) At the time of the administrative sealing hearing, if the court finds the respondent remains on supervision for the case being considered for sealing, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility for sealing his or her juvenile court record pursuant to (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection.

(f)(i) ((~~During the administrative sealing hearing, if the court finds the respondent is no longer on supervision for the case being considered for sealing, but the respondent has not paid the full amount of restitution owing to the individual victim named in the restitution order, excluding any public or private entity providing insurance coverage or health care coverage, the court shall deny sealing the juvenile court record in a written order that: (A) Specifies the amount of restitution that remains unpaid to the original victim, excluding any public or private entity providing insurance coverage or health care coverage; and (B) provides direction to the respondent on how to pursue the sealing of records associated with this cause of action.~~

~~(ii)~~)) Within five business days of the entry of the written order denying the request to seal a juvenile court record, the juvenile court department staff shall notify the respondent of the denial by providing a copy of the order of denial to the respondent in person or in writing mailed to the respondent's last known address in the department of licensing database or the respondent's address provided to the court, whichever is more recent.

((~~(iii)~~)) (ii) At any time following entry of the written order denying the request to seal a juvenile court record, the respondent may contact the juvenile court department((~~, provide proof of payment of the remaining unpaid restitution to the original victim, excluding any public or private entity providing insurance coverage or health care coverage,~~)) and request an administrative sealing hearing. ((~~Upon verification of the satisfaction of the restitution payment, the juvenile court department staff shall circulate for signature an order sealing the file, and file the signed order with the clerk's office, who shall seal the record.~~

~~(iv)~~)) (iii) The administrative office of the courts must ensure that sealed juvenile records remain private in case of an appeal and are either not posted or redacted from any clerks papers that are posted online with the appellate record, as well as taking any other prudent steps necessary to avoid exposing sealed juvenile records to the public.

(2) Except for dismissal of a deferred disposition under RCW 13.40.127, the court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any; ((~~resolve the status of any debts owing;~~)) and, subject to RCW 13.50.050(13), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case, with the exception of identifying information under RCW 13.50.050(13).

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion((~~; and~~

~~(vi) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage~~)).

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person; and

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense((~~; and~~

~~(v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW~~)).

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if ((~~restitution has been paid and~~)) the person is eighteen years of age or older at the time of the motion.

(d) Owed restitution shall not be a barrier to record sealing. Records previously deemed ineligible for sealing on the basis of owed restitution shall be automatically sealed by the courts.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides Washington state criminal justice agencies access to sealed juvenile records information.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) ((~~County clerks may interact or correspond with the respondent, his or her parents, restitution recipients, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.~~

~~(11)~~)) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.

((~~(12)~~)) (11) All criminal justice agencies must not disclose confidential information or sealed records accessed through the Washington state identification system or other means, and no information can be given to third parties other than Washington state criminal justice agencies about the existence or nonexistence of confidential or sealed records concerning an individual.

**Sec.**  RCW 13.50.270 and 2018 c 82 s 5 are each amended to read as follows:

(1)(a) Subject to RCW 13.50.050(13), all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(i) The person who is the subject of the information or complaint is at least eighteen years of age; and

(ii) The records in question consist of successfully completed diversion agreements and counsel and release agreements, or both, which were completed on or after June 7, 2018((~~; and~~

~~(iii) There is no restitution owing in the case~~)).

(b) Notwithstanding this subsection (1), records of successfully completed diversion agreements and counsel and release agreements remain subject to destruction under the terms set forth in subsections (2) through (4) of this section, as well as sealing under RCW 13.50.260.

(c) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(d) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

(2) All records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within thirty days of being notified by the governor's office that the subject of those records received a full and unconditional pardon by the governor.

(3)(a) A person may request that the court order the records in his or her case destroyed as follows:

(i) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008. The request shall be granted if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(ii) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion. The request shall be granted if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(b) If the court grants the motion to destroy records made pursuant to this subsection, it shall, subject to RCW 13.50.050(13), order the official juvenile court record, the social file, and any other records named in the order to be destroyed.

(c) The person making the motion pursuant to this subsection must give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(4) Any juvenile justice or care agency may, subject to the limitations in RCW 13.50.050(13) and this section, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (1) of this section.

(b) The court may not routinely destroy the official juvenile court record or recordings or transcripts of any proceedings.

**Sec.**  RCW 43.43.7541 and 2018 c 269 s 18 are each amended to read as follows:

Every sentence imposed for a crime specified in RCW 43.43.754 must include a fee of one hundred dollars unless the state has previously collected the offender's DNA as a result of a prior conviction or the offender is under the age of 18. The fee is a court‑ordered legal financial obligation as defined in RCW 9.94A.030 and other applicable law. For a sentence imposed under chapter 9.94A RCW, the fee is payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. For all other sentences, the fee is payable by the offender in the same manner as other assessments imposed. The clerk of the court shall transmit eighty percent of the fee collected to the state treasurer for deposit in the state DNA database account created under RCW 43.43.7532, and shall transmit twenty percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754. This fee shall not be imposed on juvenile offenders ((~~if the state has previously collected the juvenile offender's DNA as a result of a prior conviction~~)).

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 13.40.056 (Nonrefundable bail fee) and 1995 c 395 s 9;

(2) RCW 13.40.085 (Diversion services costs—Fees—Payment by parent or legal guardian) and 1993 c 171 s 1;

(3) RCW 13.40.192 (Legal financial obligations—Enforceability—Treatment of obligations upon age of eighteen or conclusion of juvenile court jurisdiction—Extension of judgment—Petition for modification or relief) and 2015 c 265 s 7 & 1997 c 121 s 7;

(4) RCW 13.40.198 (Penalty assessments—Jurisdiction of court) and 2000 c 71 s 1;

(5) RCW 13.40.610 (Youth court notification of satisfaction of conditions) and 2002 c 237 s 12; and

(6) RCW 13.40.640 (Youth court nonrefundable fee) and 2002 c 237 s 15.

NEW SECTION. **Sec.**  Section 4 of this act applies retroactively as well as prospectively to allow individuals with valid, unfulfilled restitution orders to participate in the community compensation program.

NEW SECTION. **Sec.**  Nothing in this act requires the courts to refund or reimburse amounts previously paid towards legal financial obligations, interests on legal financial obligations, or any other costs.

NEW SECTION. **Sec.**  Section 11 of this act expires when section 10 of this act takes effect.

NEW SECTION. **Sec.**  Section 10 of this act takes effect when section 3, chapter 206, Laws of 2021 takes effect.

NEW SECTION. **Sec.**  Section 22 of this act expires when section 23 of this act takes effect.

NEW SECTION. **Sec.**  Section 23 of this act takes effect when section 4, chapter 206, Laws of 2021 takes effect.

**--- END ---**