

ESHB 1169 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/12/2023

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

3 "PART I

4 **Sec. 1.** RCW 7.68.035 and 2018 c 269 s 19 are each amended to
5 read as follows:

6 (1) ~~((a) When))~~ Except as provided in subsection (4) of this
7 section, when any adult person is found guilty in any superior court
8 of having committed a crime, except as provided in subsection (2) of
9 this section, there shall be imposed by the court upon such convicted
10 person a penalty assessment. The assessment shall be in addition to
11 any other penalty or fine imposed by law and shall be five hundred
12 dollars for each case or cause of action that includes one or more
13 convictions of a felony or gross misdemeanor and two hundred fifty
14 dollars for any case or cause of action that includes convictions of
15 only one or more misdemeanors.

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

22 ~~(c) When any juvenile is adjudicated of an offense which has a~~
23 ~~victim, and which is not a most serious offense as defined in RCW~~
24 ~~9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall~~
25 ~~order up to seven hours of community restitution, unless the court~~
26 ~~finds that such an order is not practicable for the offender. This~~
27 ~~community restitution must be imposed consecutively to any other~~
28 ~~community restitution the court imposes for the offense.))~~

29 (2) The assessment imposed by subsection (1) of this section
30 shall not apply to motor vehicle crimes defined in Title 46 RCW
31 except those defined in the following sections: RCW 46.61.520,

1 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504,
2 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249,
3 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010,
4 46.44.180, 46.10.490(2), and 46.09.470(2).

5 (3) (~~When~~) Except as provided in subsection (4) of this
6 section, when any adult person accused of having committed a crime
7 posts bail in superior court pursuant to the provisions of chapter
8 10.19 RCW and such bail is forfeited, there shall be deducted from
9 the proceeds of such forfeited bail a penalty assessment, in addition
10 to any other penalty or fine imposed by law, equal to the assessment
11 which would be applicable under subsection (1) of this section if the
12 person had been convicted of the crime.

13 (4) The court shall not impose the penalty assessment under this
14 section if the court finds that the defendant, at the time of
15 sentencing, is indigent as defined in RCW 10.01.160(3).

16 (5) Upon motion by a defendant, the court shall waive any crime
17 victim penalty assessment imposed prior to the effective date of this
18 section if:

19 (a) The person was a juvenile at the time the penalty assessment
20 was imposed; or

21 (b) The person does not have the ability to pay the penalty
22 assessment. A person does not have the ability to pay if the person
23 is indigent as defined in RCW 10.01.160(3).

24 (6) Such penalty assessments shall be paid by the clerk of the
25 superior court to the county treasurer. Each county shall deposit one
26 hundred percent of the money it receives per case or cause of action
27 under subsection (1) of this section, not less than one and seventy-
28 five one-hundredths percent of the remaining money it retains under
29 RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and
30 all money it receives under subsection (~~(7)~~) (9) of this section
31 into a fund maintained exclusively for the support of comprehensive
32 programs to encourage and facilitate testimony by the victims of
33 crimes and witnesses to crimes. A program shall be considered
34 "comprehensive" only after approval of the department upon
35 application by the county prosecuting attorney. The department shall
36 approve as comprehensive only programs which:

37 (a) Provide comprehensive services to victims and witnesses of
38 all types of crime with particular emphasis on serious crimes against
39 persons and property. It is the intent of the legislature to make
40 funds available only to programs which do not restrict services to

1 victims or witnesses of a particular type or types of crime and that
2 such funds supplement, not supplant, existing local funding levels;

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

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

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

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

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

22 ~~((5))~~ (7) Upon submission to the department of a letter of
23 intent to adopt a comprehensive program, the prosecuting attorney
24 shall retain the money deposited by the county under subsection
25 ~~((4))~~ (6) of this section until such time as the county prosecuting
26 attorney has obtained approval of a program from the department.
27 Approval of the comprehensive plan by the department must be obtained
28 within one year of the date of the letter of intent to adopt a
29 comprehensive program. The county prosecuting attorney shall not make
30 any expenditures from the money deposited under subsection ~~((4))~~
31 (6) of this section until approval of a comprehensive plan by the
32 department. If a county prosecuting attorney has failed to obtain
33 approval of a program from the department under subsection ~~((4))~~
34 (6) of this section or failed to obtain approval of a comprehensive
35 program within one year after submission of a letter of intent under
36 this section, the county treasurer shall monthly transmit one hundred
37 percent of the money deposited by the county under subsection ~~((4))~~
38 (6) of this section to the state treasurer for deposit in the state
39 general fund.

1 ((+6)) (8) County prosecuting attorneys are responsible to make
2 every reasonable effort to insure that the penalty assessments of
3 this chapter are imposed and collected.

4 ((+7)) (9) Every city and town shall transmit monthly one and
5 seventy-five one-hundredths percent of all money, other than money
6 received for parking infractions, retained under RCW 3.50.100 and
7 35.20.220 to the county treasurer for deposit as provided in
8 subsection ((+4)) (6) of this section.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.68 RCW
10 to read as follows:

11 (1) The state crime victim and witness assistance account is
12 created in the state treasury. The account shall consist of funds
13 appropriated by the legislature for comprehensive crime victim and
14 witness programs under RCW 7.68.035. The purpose of the account is to
15 mitigate to fiscal impact from the elimination of the crime victim
16 penalty assessment on juveniles and indigent adults in this act.

17 (2) Pursuant to appropriation, each quarter, the state treasurer
18 must distribute moneys deposited in the state crime victim and
19 witness assistance account to counties on the basis of each county's
20 distribution factor under RCW 82.14.310.

21 (3) Counties may expend moneys distributed under this section
22 only for purposes specified in RCW 7.68.035.

23 **Sec. 3.** RCW 43.43.7532 and 2002 c 289 s 5 are each amended to
24 read as follows:

25 The state DNA database account is created in the custody of the
26 state treasurer. ~~((All))~~ The account shall consist of funds
27 appropriated by the legislature for operation and maintenance of the
28 DNA database and all receipts under RCW 43.43.7541 ~~((must be~~
29 ~~deposited into the account))~~. Expenditures from the account may be
30 used only for creation, operation, and maintenance of the DNA
31 database under RCW 43.43.754. Only the chief of the Washington state
32 patrol or the chief's designee may authorize expenditures from the
33 account. The account is subject to allotment procedures under chapter
34 43.88 RCW, but an appropriation is not required for expenditures.

35 **Sec. 4.** RCW 43.43.7541 and 2018 c 269 s 18 are each amended to
36 read as follows:

1 **CONFORMING AMENDMENTS**

2 **Sec. 6.** RCW 7.68.240 and 2022 c 260 s 22 are each amended to
3 read as follows:

4 Upon a showing by any convicted person or the state that five
5 years have elapsed from the establishment of such escrow account and
6 further that no actions are pending against such convicted person
7 pursuant to RCW 7.68.200 through 7.68.280, the department shall
8 immediately pay over 50 percent of any moneys in the escrow account
9 to such person or his or her legal representatives and 50 percent of
10 any moneys in the escrow account to the fund under RCW
11 7.68.035(~~(+4)~~) (6).

12 **Sec. 7.** RCW 9.92.060 and 2022 c 260 s 6 are each amended to read
13 as follows:

14 (1) Whenever any person is convicted of any crime except murder,
15 burglary in the first degree, arson in the first degree, robbery,
16 rape of a child, or rape, the superior court may, in its discretion,
17 at the time of imposing sentence upon such person, direct that such
18 sentence be stayed and suspended until otherwise ordered by the
19 superior court, and, upon such terms as the superior court may
20 determine, that the sentenced person be placed under the charge of:

21 (a) A community corrections officer employed by the department of
22 corrections, if the person is subject to supervision under RCW
23 9.94A.501 or 9.94A.5011; or

24 (b) A probation officer employed or contracted for by the county,
25 if the county has elected to assume responsibility for the
26 supervision of superior court misdemeanor probationers.

27 (2) As a condition to suspension of sentence, the superior court
28 (~~(shall require the payment of the penalty assessment required by RCW~~
29 ~~7.68.035. In addition, the superior court)~~) may require the convicted

30 person to make such monetary payments, on such terms as the superior
31 court deems appropriate under the circumstances, as are necessary:

32 (a) To comply with any order of the court for the payment of family
33 support; (b) to make restitution to any person or persons who may
34 have suffered loss or damage by reason of the commission of the crime
35 in question or when the offender pleads guilty to a lesser offense or
36 fewer offenses and agrees with the prosecutor's recommendation that
37 the offender be required to pay restitution to a victim of an offense
38 or offenses which are not prosecuted pursuant to a plea agreement;

1 (c) to pay any fine imposed and not suspended and the court or other
2 costs incurred in the prosecution of the case, including
3 reimbursement of the state for costs of extradition if return to this
4 state by extradition was required; and (d) to contribute to a county
5 or interlocal drug fund.

6 (3) At any time, including at sentencing, the court may determine
7 that the offender is not required to pay, or may relieve the offender
8 of the requirement to pay, full or partial restitution and accrued
9 interest on restitution where the entity to whom restitution is owed
10 is an insurer or a state agency, except for restitution owed to the
11 department of labor and industries under chapter 7.68 RCW, if the
12 court finds that the offender does not have the current or likely
13 future ability to pay. A person does not have the current ability to
14 pay if the person is indigent as defined in RCW 10.01.160(3). For the
15 purposes of this subsection, the terms "insurer" and "state agency"
16 have the same meanings as provided in RCW 9.94A.750(3).

17 (4) As a condition of the suspended sentence, the superior court
18 may order the probationer to report to the secretary of corrections
19 or such officer as the secretary may designate and as a condition of
20 the probation to follow the instructions of the secretary. If the
21 county legislative authority has elected to assume responsibility for
22 the supervision of superior court misdemeanor probationers within
23 its jurisdiction, the superior court misdemeanor probationer shall
24 report to a probation officer employed or contracted for by the
25 county. In cases where a superior court misdemeanor probationer is
26 sentenced in one county, but resides within another county, there
27 must be provisions for the probationer to report to the agency having
28 supervision responsibility for the probationer's county of residence.

29 (5) If restitution to the victim has been ordered under
30 subsection (2)(b) of this section and the superior court has ordered
31 supervision, the officer supervising the probationer shall make a
32 reasonable effort to ascertain whether restitution has been made as
33 ordered. If the superior court has ordered supervision and
34 restitution has not been made, the officer shall inform the
35 prosecutor of that violation of the terms of the suspended sentence
36 not less than three months prior to the termination of the suspended
37 sentence.

38 **Sec. 8.** RCW 9.94A.6333 and 2022 c 260 s 13 are each amended to
39 read as follows:

1 (1) If an offender violates any condition or requirement of a
2 sentence, and the offender is not being supervised by the department,
3 the court may modify its order of judgment and sentence and impose
4 further punishment in accordance with this section.

5 (2) If an offender fails to comply with any of the nonfinancial
6 conditions or requirements of a sentence the following provisions
7 apply:

8 (a) The court, upon the motion of the state, or upon its own
9 motion, shall require the offender to show cause why the offender
10 should not be punished for the noncompliance. The court may issue a
11 summons or a warrant of arrest for the offender's appearance;

12 (b) The state has the burden of showing noncompliance by a
13 preponderance of the evidence;

14 (c) If the court finds that a violation has been proved, it may
15 impose the sanctions specified in RCW 9.94A.633(1). Alternatively,
16 the court may:

17 (i) Convert a term of partial confinement to total confinement;
18 or

19 (ii) Convert community restitution obligation to total or partial
20 confinement;

21 (d) If the court finds that the violation was not willful, the
22 court may modify its previous order regarding community restitution
23 obligations; and

24 (e) If the violation involves a failure to undergo or comply with
25 a mental health status evaluation and/or outpatient mental health
26 treatment, the court shall seek a recommendation from the treatment
27 provider or proposed treatment provider. Enforcement of orders
28 concerning outpatient mental health treatment must reflect the
29 availability of treatment and must pursue the least restrictive means
30 of promoting participation in treatment. If the offender's failure to
31 receive care essential for health and safety presents a risk of
32 serious physical harm or probable harmful consequences, the civil
33 detention and commitment procedures of chapter 71.05 RCW shall be
34 considered in preference to incarceration in a local or state
35 correctional facility.

36 (3) If an offender fails to pay legal financial obligations as a
37 requirement of a sentence the following provisions apply:

38 (a) The court, upon the motion of the state, or upon its own
39 motion, shall require the offender to show cause why the offender

1 should not be punished for the noncompliance. The court may issue a
2 summons or a warrant of arrest for the offender's appearance;

3 (b) The state has the burden of showing noncompliance by a
4 preponderance of the evidence;

5 (c) The court may not sanction the offender for failure to pay
6 legal financial obligations unless the court finds, after a hearing
7 and on the record, that the failure to pay is willful. A failure to
8 pay is willful if the offender has the current ability to pay but
9 refuses to do so. In determining whether the offender has the current
10 ability to pay, the court shall inquire into and consider: (i) The
11 offender's income and assets; (ii) the offender's basic living costs
12 as defined by RCW 10.101.010 and other liabilities including child
13 support and other legal financial obligations; and (iii) the
14 offender's bona fide efforts to acquire additional resources. An
15 offender who is indigent as defined (~~by [in]~~) in RCW 10.01.160(3)
16 is presumed to lack the current ability to pay;

17 (d) If the court determines that the offender is homeless or a
18 person who is mentally ill, as defined in RCW 71.24.025, failure to
19 pay a legal financial obligation is not willful noncompliance and
20 shall not subject the offender to penalties;

21 (e) If the court finds that a failure to pay is willful
22 noncompliance, it may impose the sanctions specified in RCW
23 9.94A.633(1); and

24 (f) If the court finds that the violation was not willful, the
25 court may, and if the court finds that the defendant is indigent as
26 defined in RCW 10.01.160(3), the court shall modify the terms of
27 payment of the legal financial obligations, reduce or waive
28 nonrestitution legal financial obligations, or convert nonrestitution
29 legal financial obligations to community restitution hours, if the
30 jurisdiction operates a community restitution program, at the rate of
31 no less than the state minimum wage established in RCW 49.46.020 for
32 each hour of community restitution. (~~The crime victim penalty
33 assessment under RCW 7.68.035 may not be reduced, waived, or
34 converted to community restitution hours.~~)

35 (4) Any time served in confinement awaiting a hearing on
36 noncompliance shall be credited against any confinement ordered by
37 the court.

38 (5) Nothing in this section prohibits the filing of escape
39 charges if appropriate.

1 **Sec. 9.** RCW 9.94A.760 and 2022 c 260 s 4 and 2022 c 29 s 4 are
2 each reenacted and amended to read as follows:

3 (1) Whenever a person is convicted in superior court, the court
4 may order the payment of a legal financial obligation as part of the
5 sentence. The court may not order an offender to pay costs as
6 described in RCW 10.01.160 if the court finds that the offender at
7 the time of sentencing is indigent as defined in RCW 10.01.160(3). An
8 offender being indigent as defined in RCW 10.01.160(3) is not grounds
9 for failing to impose restitution (~~(or the crime victim penalty~~
10 ~~assessment under RCW 7.68.035)), subject to RCW 9.94A.750(3) and~~
11 9.94A.753(3). The court must on either the judgment and sentence or
12 on a subsequent order to pay, designate the total amount of a legal
13 financial obligation and segregate this amount among the separate
14 assessments made for restitution, costs, fines, and other assessments
15 required by law. On the same order, the court is also to set a sum
16 that the offender is required to pay on a monthly basis towards
17 satisfying the legal financial obligation. If the court fails to set
18 the offender monthly payment amount, the department shall set the
19 amount if the department has active supervision of the offender,
20 otherwise the county clerk shall set the amount.

21 (2) Upon receipt of each payment made by or on behalf of an
22 offender, the county clerk shall distribute the payment in the
23 following order of priority until satisfied:

24 (a) First, proportionally to restitution to victims that have not
25 been fully compensated from other sources;

26 (b) Second, proportionally to restitution to insurance or other
27 sources with respect to a loss that has provided compensation to
28 victims;

29 (c) Third, proportionally to crime victims' assessments that have
30 not been waived under RCW 7.68.035; and

31 (d) Fourth, proportionally to costs, fines, and other assessments
32 required by law.

33 (3) If the court determines that the offender, at the time of
34 sentencing, has the means to pay for the cost of incarceration, the
35 court may require the offender to pay for the cost of incarceration.
36 The court shall not order the offender to pay the cost of
37 incarceration if the court finds that the offender at the time of
38 sentencing is indigent as defined in RCW 10.01.160(3). Costs of
39 incarceration ordered by the court shall not exceed a rate of \$50 per
40 day of incarceration, if incarcerated in a prison, or the actual cost

1 of incarceration per day of incarceration, if incarcerated in a
2 county jail. In no case may the court require the offender to pay
3 more than \$100 per day for the cost of incarceration. All funds
4 recovered from offenders for the cost of incarceration in the county
5 jail shall be remitted to the county and the costs of incarceration
6 in a prison shall be remitted to the department.

7 (4) The court may add to the judgment and sentence or subsequent
8 order to pay a statement that a notice of payroll deduction is to be
9 issued immediately. If the court chooses not to order the immediate
10 issuance of a notice of payroll deduction at sentencing, the court
11 shall add to the judgment and sentence or subsequent order to pay a
12 statement that a notice of payroll deduction may be issued or other
13 income-withholding action may be taken, without further notice to the
14 offender if a monthly court-ordered legal financial obligation
15 payment is not paid when due, and an amount equal to or greater than
16 the amount payable for one month is owed.

17 If a judgment and sentence or subsequent order to pay does not
18 include the statement that a notice of payroll deduction may be
19 issued or other income-withholding action may be taken if a monthly
20 legal financial obligation payment is past due, the department or the
21 county clerk may serve a notice on the offender stating such
22 requirements and authorizations. Service shall be by personal service
23 or any form of mail requiring a return receipt.

24 (5) (a) Independent of the department or the county clerk, the
25 party or entity to whom the legal financial obligation is owed shall
26 have the authority to use any other remedies available to the party
27 or entity to collect the legal financial obligation. These remedies
28 include enforcement in the same manner as a judgment in a civil
29 action by the party or entity to whom the legal financial obligation
30 is owed. Restitution collected through civil enforcement must be paid
31 through the registry of the court and must be distributed
32 proportionately according to each victim's loss when there is more
33 than one victim. The judgment and sentence shall identify the party
34 or entity to whom restitution is owed so that the state, party, or
35 entity may enforce the judgment.

36 (b) If restitution is ordered pursuant to RCW 9.94A.750(6) or
37 9.94A.753(6) to a victim of rape of a child or a victim's child born
38 from the rape, the Washington state child support registry shall be
39 identified as the party to whom payments must be made. Restitution
40 obligations arising from the rape of a child in the first, second, or

1 third degree that result in the pregnancy of the victim may be
2 enforced for the time periods provided under RCW 9.94A.750(6) and
3 9.94A.753(6).

4 (c) All other restitution obligations for an offense committed
5 prior to July 1, 2000, may be enforced at any time during the 10-year
6 period following the offender's release from total confinement or
7 within 10 years of entry of the judgment and sentence, whichever
8 period ends later. Prior to the expiration of the initial 10-year
9 period, the superior court may extend the criminal judgment an
10 additional 10 years for payment of restitution obligations. All other
11 restitution obligations for an offense committed on or after July 1,
12 2000, may be enforced at any time the offender remains under the
13 court's jurisdiction. For an offense committed on or after July 1,
14 2000, the court shall retain jurisdiction over the offender, for
15 purposes of the offender's compliance with payment of the restitution
16 obligations, until the obligation is completely satisfied, regardless
17 of the statutory maximum for the crime.

18 (d) All other legal financial obligations other than restitution
19 may be enforced at any time during the 10-year period following the
20 offender's release from total confinement or within 10 years of entry
21 of the judgment and sentence, whichever period ends later. Prior to
22 the expiration of the initial 10-year period, the superior court may
23 extend the criminal judgment an additional 10 years for payment of
24 nonrestitution legal financial obligations only if the court finds
25 that the offender has the current or likely future ability to pay the
26 obligations. A person does not have the current ability to pay if the
27 person is indigent as defined in RCW 10.01.160(3).

28 (e) The department may only supervise the offender's compliance
29 with payment of the legal financial obligations during any period in
30 which the department is authorized to supervise the offender in the
31 community under RCW 9.94A.728, 9.94A.501, or in which the offender is
32 confined in a state correctional institution or a correctional
33 facility pursuant to a transfer agreement with the department, and
34 the department shall supervise the offender's compliance during any
35 such period. The department is not responsible for supervision of the
36 offender during any subsequent period of time the offender remains
37 under the court's jurisdiction. The county clerk is authorized to
38 collect unpaid legal financial obligations at any time the offender
39 remains under the jurisdiction of the court for purposes of his or
40 her legal financial obligations.

1 (6) In order to assist the court in setting a monthly sum that
2 the offender must pay during the period of supervision, the offender
3 is required to report to the department for purposes of preparing a
4 recommendation to the court. When reporting, the offender is
5 required, under oath, to respond truthfully and honestly to all
6 questions concerning present, past, and future earning capabilities
7 and the location and nature of all property or financial assets. The
8 offender is further required to bring all documents requested by the
9 department.

10 (7) After completing the investigation, the department shall make
11 a report to the court on the amount of the monthly payment that the
12 offender should be required to make towards a satisfied legal
13 financial obligation.

14 (8)(a) During the period of supervision, the department may make
15 a recommendation to the court that the offender's monthly payment
16 schedule be modified so as to reflect a change in financial
17 circumstances. If the department sets the monthly payment amount, the
18 department may modify the monthly payment amount without the matter
19 being returned to the court. During the period of supervision, the
20 department may require the offender to report to the department for
21 the purposes of reviewing the appropriateness of the collection
22 schedule for the legal financial obligation. During this reporting,
23 the offender is required under oath to respond truthfully and
24 honestly to all questions concerning earning capabilities and the
25 location and nature of all property or financial assets. The offender
26 shall bring all documents requested by the department in order to
27 prepare the collection schedule.

28 (b) Subsequent to any period of supervision, or if the department
29 is not authorized to supervise the offender in the community, the
30 county clerk may make a recommendation to the court that the
31 offender's monthly payment schedule be modified so as to reflect a
32 change in financial circumstances. If the county clerk sets the
33 monthly payment amount, or if the department set the monthly payment
34 amount and the department has subsequently turned the collection of
35 the legal financial obligation over to the county clerk, the clerk
36 may modify the monthly payment amount without the matter being
37 returned to the court. During the period of repayment, the county
38 clerk may require the offender to report to the clerk for the purpose
39 of reviewing the appropriateness of the collection schedule for the
40 legal financial obligation. During this reporting, the offender is

1 required under oath to respond truthfully and honestly to all
2 questions concerning earning capabilities and the location and nature
3 of all property or financial assets. The offender shall bring all
4 documents requested by the county clerk in order to prepare the
5 collection schedule.

6 (9) After the judgment and sentence or payment order is entered,
7 the department is authorized, for any period of supervision, to
8 collect the legal financial obligation from the offender. Subsequent
9 to any period of supervision or, if the department is not authorized
10 to supervise the offender in the community, the county clerk is
11 authorized to collect unpaid legal financial obligations from the
12 offender. Any amount collected by the department shall be remitted
13 daily to the county clerk for the purpose of disbursements. The
14 department and the county clerks are authorized, but not required, to
15 accept credit cards as payment for a legal financial obligation, and
16 any costs incurred related to accepting credit card payments shall be
17 the responsibility of the offender.

18 (10) The department or any obligee of the legal financial
19 obligation may seek a mandatory wage assignment for the purposes of
20 obtaining satisfaction for the legal financial obligation pursuant to
21 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify
22 the county clerk. The county clerks shall notify the department, or
23 the administrative office of the courts, whichever is providing the
24 monthly billing for the offender.

25 (11) The requirement that the offender pay a monthly sum towards
26 a legal financial obligation constitutes a condition or requirement
27 of a sentence and the offender is subject to the penalties for
28 noncompliance as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740.
29 If the court determines that the offender is homeless or a person who
30 is mentally ill, as defined in RCW 71.24.025, failure to pay a legal
31 financial obligation is not willful noncompliance and shall not
32 subject the offender to penalties.

33 (12)(a) The administrative office of the courts shall mail
34 individualized periodic billings to the address known by the office
35 for each offender with an unsatisfied legal financial obligation.

36 (b) The billing shall direct payments to the county clerk.

37 (c) The county clerk shall provide the administrative office of
38 the courts with notice of payments by such offenders no less
39 frequently than weekly.

1 (d) The county clerks, the administrative office of the courts,
2 and the department shall maintain agreements to implement this
3 subsection.

4 (13) The department shall arrange for the collection of unpaid
5 legal financial obligations during any period of supervision in the
6 community through the county clerk. The department shall either
7 collect unpaid legal financial obligations or arrange for collections
8 through another entity if the clerk does not assume responsibility or
9 is unable to continue to assume responsibility for collection
10 pursuant to subsection (5) of this section. The costs for collection
11 services shall be paid by the offender.

12 (14) The county clerk may access the records of the employment
13 security department for the purposes of verifying employment or
14 income, seeking any assignment of wages, or performing other duties
15 necessary to the collection of an offender's legal financial
16 obligations.

17 (15) Nothing in this chapter makes the department, the state, the
18 counties, or any state or county employees, agents, or other persons
19 acting on their behalf liable under any circumstances for the payment
20 of these legal financial obligations or for the acts of any offender
21 who is no longer, or was not, subject to supervision by the
22 department for a term of community custody, and who remains under the
23 jurisdiction of the court for payment of legal financial obligations.

24 **Sec. 10.** RCW 9.94B.040 and 2022 c 260 s 14 are each amended to
25 read as follows:

26 (1) If an offender violates any condition or requirement of a
27 sentence, the court may modify its order of judgment and sentence and
28 impose further punishment in accordance with this section.

29 (2) In cases where conditions from a second or later sentence of
30 community supervision begin prior to the term of the second or later
31 sentence, the court shall treat a violation of such conditions as a
32 violation of the sentence of community supervision currently being
33 served.

34 (3) If an offender fails to comply with any of the nonfinancial
35 requirements or conditions of a sentence the following provisions
36 apply:

37 (a)(i) Following the violation, if the offender and the
38 department make a stipulated agreement, the department may impose
39 sanctions such as work release, home detention with electronic

1 monitoring, work crew, community restitution, inpatient treatment,
2 daily reporting, curfew, educational or counseling sessions,
3 supervision enhanced through electronic monitoring, jail time, or
4 other sanctions available in the community.

5 (ii) Within 72 hours of signing the stipulated agreement, the
6 department shall submit a report to the court and the prosecuting
7 attorney outlining the violation or violations, and sanctions
8 imposed. Within 15 days of receipt of the report, if the court is not
9 satisfied with the sanctions, the court may schedule a hearing and
10 may modify the department's sanctions. If this occurs, the offender
11 may withdraw from the stipulated agreement.

12 (iii) If the offender fails to comply with the sanction
13 administratively imposed by the department, the court may take action
14 regarding the original noncompliance. Offender failure to comply with
15 the sanction administratively imposed by the department may be
16 considered an additional violation;

17 (b) In the absence of a stipulated agreement, or where the court
18 is not satisfied with the department's sanctions as provided in (a)
19 of this subsection, the court, upon the motion of the state, or upon
20 its own motion, shall require the offender to show cause why the
21 offender should not be punished for the noncompliance. The court may
22 issue a summons or a warrant of arrest for the offender's appearance;

23 (c) The state has the burden of showing noncompliance by a
24 preponderance of the evidence. If the court finds that the violation
25 has occurred, it may order the offender to be confined for a period
26 not to exceed 60 days for each violation, and may (i) convert a term
27 of partial confinement to total confinement, (ii) convert community
28 restitution obligation to total or partial confinement, or (iii)
29 order one or more of the penalties authorized in (a)(i) of this
30 subsection. Any time served in confinement awaiting a hearing on
31 noncompliance shall be credited against any confinement order by the
32 court;

33 (d) If the court finds that the violation was not willful, the
34 court may modify its previous order regarding community restitution
35 obligations; and

36 (e) If the violation involves a failure to undergo or comply with
37 mental status evaluation and/or outpatient mental health treatment,
38 the community corrections officer shall consult with the treatment
39 provider or proposed treatment provider. Enforcement of orders
40 concerning outpatient mental health treatment must reflect the

1 availability of treatment and must pursue the least restrictive means
2 of promoting participation in treatment. If the offender's failure to
3 receive care essential for health and safety presents a risk of
4 serious physical harm or probable harmful consequences, the civil
5 detention and commitment procedures of chapter 71.05 RCW shall be
6 considered in preference to incarceration in a local or state
7 correctional facility.

8 (4) If the violation involves failure to pay legal financial
9 obligations, the following provisions apply:

10 (a) The department and the offender may enter into a stipulated
11 agreement that the failure to pay was willful noncompliance,
12 according to the provisions and requirements of subsection (3)(a) of
13 this section;

14 (b) In the absence of a stipulated agreement, or where the court
15 is not satisfied with the department's sanctions as provided in a
16 stipulated agreement under (a) of this subsection, the court, upon
17 the motion of the state, or upon its own motion, shall require the
18 offender to show cause why the offender should not be punished for
19 the noncompliance. The court may issue a summons or a warrant of
20 arrest for the offender's appearance;

21 (c) The state has the burden of showing noncompliance by a
22 preponderance of the evidence. The court may not sanction the
23 offender for failure to pay legal financial obligations unless the
24 court finds, after a hearing and on the record, that the failure to
25 pay is willful. A failure to pay is willful if the offender has the
26 current ability to pay but refuses to do so. In determining whether
27 the offender has the current ability to pay, the court shall inquire
28 into and consider: (i) The offender's income and assets; (ii) the
29 offender's basic living costs as defined by RCW 10.101.010 and other
30 liabilities including child support and other legal financial
31 obligations; and (iii) the offender's bona fide efforts to acquire
32 additional resources. An offender who is indigent as defined (~~by~~
33 ~~in~~) in RCW 10.01.160(3) is presumed to lack the current ability to
34 pay;

35 (d) If the court determines that the offender is homeless or a
36 person who is mentally ill, as defined in RCW 71.24.025, failure to
37 pay a legal financial obligation is not willful noncompliance and
38 shall not subject the offender to penalties;

39 (e) If the court finds that the failure to pay is willful
40 noncompliance, the court may order the offender to be confined for a

1 period not to exceed 60 days for each violation or order one or more
2 of the penalties authorized in subsection (3)(a)(i) of this section;
3 and

4 (f) If the court finds that the violation was not willful, the
5 court may, and if the court finds that the defendant is indigent as
6 defined in RCW 10.01.160(3), the court shall modify the terms of
7 payment of the legal financial obligations, reduce or waive
8 nonrestitution legal financial obligations, or convert nonrestitution
9 legal financial obligations to community restitution hours, if the
10 jurisdiction operates a community restitution program, at the rate of
11 no less than the state minimum wage established in RCW 49.46.020 for
12 each hour of community restitution. (~~The crime victim penalty
13 assessment under RCW 7.68.035 may not be reduced, waived, or
14 converted to community restitution hours.~~)

15 (5) The community corrections officer may obtain information from
16 the offender's mental health treatment provider on the offender's
17 status with respect to evaluation, application for services,
18 registration for services, and compliance with the supervision plan,
19 without the offender's consent, as described under RCW 71.05.630.

20 (6) An offender under community placement or community
21 supervision who is civilly detained under chapter 71.05 RCW, and
22 subsequently discharged or conditionally released to the community,
23 shall be under the supervision of the department of corrections for
24 the duration of his or her period of community placement or community
25 supervision. During any period of inpatient mental health treatment
26 that falls within the period of community placement or community
27 supervision, the inpatient treatment provider and the supervising
28 community corrections officer shall notify each other about the
29 offender's discharge, release, and legal status, and shall share
30 other relevant information.

31 (7) Nothing in this section prohibits the filing of escape
32 charges if appropriate.

33 **Sec. 11.** RCW 9.95.210 and 2022 c 260 s 7 are each amended to
34 read as follows:

35 (1)(a) Except as provided in (b) of this subsection in granting
36 probation, the superior court may suspend the imposition or the
37 execution of the sentence and may direct that the suspension may
38 continue upon such conditions and for such time as it shall

1 designate, not exceeding the maximum term of sentence or two years,
2 whichever is longer.

3 (b) For a defendant sentenced for a domestic violence offense, or
4 under RCW 46.61.5055, the superior court may suspend the imposition
5 or the execution of the sentence and may direct that the suspension
6 continue upon such conditions and for such time as the court shall
7 designate, not to exceed five years. The court shall have continuing
8 jurisdiction and authority to suspend the execution of all or any
9 part of the sentence upon stated terms, including installment payment
10 of fines. A defendant who has been sentenced, and who then fails to
11 appear for any hearing to address the defendant's compliance with the
12 terms of probation when ordered to do so by the court shall have the
13 term of probation tolled until such time as the defendant makes his
14 or her presence known to the court on the record. Any time before
15 entering an order terminating probation, the court may modify or
16 revoke its order suspending the imposition or execution of the
17 sentence if the defendant violates or fails to carry out any of the
18 conditions of the suspended sentence.

19 (2) In the order granting probation and as a condition thereof,
20 the superior court may in its discretion imprison the defendant in
21 the county jail for a period not exceeding one year and may fine the
22 defendant any sum not exceeding the statutory limit for the offense
23 committed, and court costs. As a condition of probation, the superior
24 court (~~((shall require the payment of the penalty assessment required
25 by RCW 7.68.035. The superior court))~~) may ((also)) require the
26 defendant to make such monetary payments, on such terms as it deems
27 appropriate under the circumstances, as are necessary: (a) To comply
28 with any order of the court for the payment of family support; (b) to
29 make restitution to any person or persons who may have suffered loss
30 or damage by reason of the commission of the crime in question or
31 when the offender pleads guilty to a lesser offense or fewer offenses
32 and agrees with the prosecutor's recommendation that the offender be
33 required to pay restitution to a victim of an offense or offenses
34 which are not prosecuted pursuant to a plea agreement; (c) to pay
35 such fine as may be imposed and court costs, including reimbursement
36 of the state for costs of extradition if return to this state by
37 extradition was required; (d) following consideration of the
38 financial condition of the person subject to possible electronic
39 monitoring, to pay for the costs of electronic monitoring if that
40 monitoring was required by the court as a condition of release from

1 custody or as a condition of probation; (e) to contribute to a county
2 or interlocal drug fund; and (f) to make restitution to a public
3 agency for the costs of an emergency response under RCW 38.52.430,
4 and may require bonds for the faithful observance of any and all
5 conditions imposed in the probation.

6 (3) The superior court shall order restitution in all cases where
7 the victim is entitled to benefits under the crime victims'
8 compensation act, chapter 7.68 RCW. If the superior court does not
9 order restitution and the victim of the crime has been determined to
10 be entitled to benefits under the crime victims' compensation act,
11 the department of labor and industries, as administrator of the crime
12 victims' compensation program, may petition the superior court within
13 one year of imposition of the sentence for entry of a restitution
14 order. Upon receipt of a petition from the department of labor and
15 industries, the superior court shall hold a restitution hearing and
16 shall enter a restitution order.

17 (4) At any time, including at sentencing, the court may determine
18 that the offender is not required to pay, or may relieve the offender
19 of the requirement to pay, full or partial restitution and accrued
20 interest on restitution where the entity to whom restitution is owed
21 is an insurer or a state agency, except for restitution owed to the
22 department of labor and industries under chapter 7.68 RCW, if the
23 court finds that the offender does not have the current or likely
24 future ability to pay. A person does not have the current ability to
25 pay if the person is indigent as defined in RCW 10.01.160(3). For the
26 purposes of this subsection, the terms "insurer" and "state agency"
27 have the same meanings as provided in RCW 9.94A.750(3).

28 (5) In granting probation, the superior court may order the
29 probationer to report to the secretary of corrections or such officer
30 as the secretary may designate and as a condition of the probation to
31 follow the instructions of the secretary for up to twelve months. If
32 the county legislative authority has elected to assume responsibility
33 for the supervision of superior court misdemeanor probationers
34 within its jurisdiction, the superior court misdemeanor probationer
35 shall report to a probation officer employed or contracted for by the
36 county. In cases where a superior court misdemeanor probationer is
37 sentenced in one county, but resides within another county, there
38 must be provisions for the probationer to report to the agency having
39 supervision responsibility for the probationer's county of residence.

1 (6) If the probationer has been ordered to make restitution and
2 the superior court has ordered supervision, the officer supervising
3 the probationer shall make a reasonable effort to ascertain whether
4 restitution has been made. If the superior court has ordered
5 supervision and restitution has not been made as ordered, the officer
6 shall inform the prosecutor of that violation of the terms of
7 probation not less than three months prior to the termination of the
8 probation period. The secretary of corrections will promulgate rules
9 and regulations for the conduct of the person during the term of
10 probation. For defendants found guilty in district court, like
11 functions as the secretary performs in regard to probation may be
12 performed by probation officers employed for that purpose by the
13 county legislative authority of the county wherein the court is
14 located.

15 (7) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
16 sentences imposed under this section.

17 (8) For purposes of this section, "domestic violence" means the
18 same as in RCW 10.99.020.

19 **Sec. 12.** RCW 10.01.180 and 2022 c 260 s 15 are each amended to
20 read as follows:

21 (1) A defendant sentenced to pay any fine, penalty, assessment,
22 fee, or costs who willfully defaults in the payment thereof or of any
23 installment is in contempt of court as provided in chapter 7.21 RCW.
24 The court may issue a warrant of arrest for his or her appearance.

25 (2) When any fine, penalty, assessment, fee, or assessment of
26 costs is imposed on a corporation or unincorporated association, it
27 is the duty of the person authorized to make disbursement from the
28 assets of the corporation or association to pay the obligation from
29 those assets, and his or her failure to do so may be held to be
30 contempt.

31 (3)(a) The court shall not sanction a defendant for contempt
32 based on failure to pay fines, penalties, assessments, fees, or costs
33 unless the court finds, after a hearing and on the record, that the
34 failure to pay is willful. A failure to pay is willful if the
35 defendant has the current ability to pay but refuses to do so.

36 (b) In determining whether the defendant has the current ability
37 to pay, the court shall inquire into and consider: (i) The
38 defendant's income and assets; (ii) the defendant's basic living
39 costs as defined by RCW 10.101.010 and other liabilities including

1 child support and other legal financial obligations; and (iii) the
2 defendant's bona fide efforts to acquire additional resources. A
3 defendant who is indigent as defined (~~(by [in])~~) in RCW 10.01.160(3)
4 is presumed to lack the current ability to pay.

5 (c) If the court determines that the defendant is homeless or a
6 person who is mentally ill, as defined in RCW 71.24.025, failure to
7 pay a legal financial obligation is not willful contempt and shall
8 not subject the defendant to penalties.

9 (4) If a term of imprisonment for contempt for nonpayment of any
10 fine, penalty, assessment, fee, or costs is ordered, the term of
11 imprisonment shall be set forth in the commitment order, and shall
12 not exceed one day for each \$25 of the amount ordered, 30 days if the
13 amount ordered of costs was imposed upon conviction of a violation or
14 misdemeanor, or one year in any other case, whichever is the shorter
15 period. A person committed for nonpayment of any fine, penalty,
16 assessment, fee, or costs shall be given credit toward payment for
17 each day of imprisonment at the rate specified in the commitment
18 order.

19 (5) If it appears to the satisfaction of the court that the
20 default in the payment of any fine, penalty, assessment, fee, or
21 costs is not willful contempt, the court may, and if the defendant is
22 indigent as defined in RCW 10.01.160(3), the court shall enter an
23 order: (a) Allowing the defendant additional time for payment; (b)
24 reducing the amount thereof or of each installment; (c) revoking the
25 fine, penalty, assessment, fee, or costs or the unpaid portion
26 thereof in whole or in part; or (d) converting the unpaid fine,
27 penalty, assessment, fee, or costs to community restitution hours, if
28 the jurisdiction operates a community restitution program, at the
29 rate of no less than the state minimum wage established in RCW
30 49.46.020 for each hour of community restitution. (~~(The crime victim
31 penalty assessment under RCW 7.68.035 may not be reduced, revoked, or
32 converted to community restitution hours.)~~)

33 (6) A default in the payment of any fine, penalty, assessment,
34 fee, or costs or any installment thereof may be collected by any
35 means authorized by law for the enforcement of a judgment. The levy
36 of execution for the collection of any fine, penalty, assessment,
37 fee, or costs shall not discharge a defendant committed to
38 imprisonment for contempt until the amount has actually been
39 collected.

1 **Sec. 13.** RCW 10.82.090 and 2022 c 260 s 12 are each amended to
2 read as follows:

3 (1) Except as provided in subsections (2) and (3) of this section
4 and RCW 3.50.100, 3.62.020, and 35.20.220, restitution imposed in a
5 judgment shall bear interest from the date of the judgment until
6 payment, at the rate applicable to civil judgments. As of June 7,
7 2018, no interest shall accrue on nonrestitution legal financial
8 obligations. All nonrestitution interest retained by the court shall
9 be split 25 percent to the state treasurer for deposit in the state
10 general fund, 25 percent to the state treasurer for deposit in the
11 judicial information system account as provided in RCW 2.68.020, 25
12 percent to the county current expense fund, and 25 percent to the
13 county current expense fund to fund local courts.

14 (2) The court may elect not to impose interest on any restitution
15 the court orders. Before determining not to impose interest on
16 restitution, the court shall inquire into and consider the following
17 factors: (a) Whether the offender is indigent as defined in RCW
18 (~~(10.101.010(3))~~) 10.01.160(3) or general rule 34; (b) the offender's
19 available funds, as defined in RCW 10.101.010(2), and other
20 liabilities including child support and other legal financial
21 obligations; (c) whether the offender is homeless; and (d) whether
22 the offender is mentally ill, as defined in RCW 71.24.025. The court
23 shall also consider the victim's input, if any, as it relates to any
24 financial hardship caused to the victim if interest is not imposed.
25 The court may also consider any other information that the court
26 believes, in the interest of justice, relates to not imposing
27 interest on restitution. After consideration of these factors, the
28 court may waive the imposition of restitution interest.

29 (3) The court may, on motion by the offender, reduce or waive the
30 interest on legal financial obligations levied as a result of a
31 criminal conviction as follows:

32 (a) The court shall waive all interest on the portions of the
33 legal financial obligations that are not restitution that accrued
34 prior to June 7, 2018;

35 (b) The court may waive or reduce interest on the restitution
36 portion of the legal financial obligations only if the principal has
37 been paid in full, except as provided in (c) of this subsection. The
38 court may grant the motion, establish a payment schedule, and retain
39 jurisdiction over the offender for purposes of reviewing and revising
40 the reduction or waiver of interest;

1 (c) The court may, following the offender's release from total
2 confinement, waive or reduce interest on restitution that accrued
3 during the offender's period of incarceration if the court finds that
4 the offender does not have the current or likely future ability to
5 pay. A person does not have the current ability to pay if the person
6 is indigent as defined in RCW 10.01.160(3). The prosecuting attorney
7 shall make reasonable efforts to notify the victim entitled to
8 restitution of the date and place of the hearing. The court shall
9 also consider the victim's input, if any, as it relates to any
10 financial hardship caused to the victim if interest is reduced or
11 waived.

12 (4) This section only applies to adult offenders.

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

15 No fine, administrative fee, cost, or surcharge may be imposed or
16 collected by the court or any agent of the court against any juvenile
17 or a juvenile's parent or guardian, or other person having custody of
18 the juvenile, in connection with any juvenile offender proceeding
19 including, but not limited to, fees for diversion, DNA sampling, or
20 victims' penalty assessments.

21 **Sec. 15.** RCW 13.40.020 and 2021 c 328 s 5 and 2021 c 206 s 3 are
22 each reenacted and amended to read as follows:

23 For the purposes of this chapter:

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

32 (2) "Community-based rehabilitation" means one or more of the
33 following: Employment; attendance of information classes; literacy
34 classes; counseling, outpatient substance abuse treatment programs,
35 outpatient mental health programs, anger management classes,
36 education or outpatient treatment programs to prevent animal cruelty,
37 or other services including, when appropriate, restorative justice
38 programs; or attendance at school or other educational programs

1 appropriate for the juvenile as determined by the school district.
2 Placement in community-based rehabilitation programs is subject to
3 available funds;

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

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

7 ~~(b) Community)~~ community restitution not to exceed 150 hours of
8 community restitution;

9 (4) "Community restitution" means compulsory service, without
10 compensation, performed for the benefit of the community by the
11 offender as punishment for committing an offense. Community
12 restitution may be performed through public or private organizations
13 or through work crews;

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

27 (a) Community-based sanctions;

28 (b) Community-based rehabilitation;

29 (c) Monitoring and reporting requirements;

30 (d) Posting of a probation bond;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (13) "Diversion unit" means any probation counselor who enters
31 into a diversion agreement with an alleged youthful offender, or any
32 other person, community accountability board, youth court under the
33 supervision of the juvenile court, or other entity with whom the
34 juvenile court administrator has contracted to arrange and supervise
35 such agreements pursuant to RCW 13.40.080, or any person, community
36 accountability board, or other entity specially funded by the
37 legislature to arrange and supervise diversion agreements in
38 accordance with the requirements of this chapter. For purposes of
39 this subsection, "community accountability board" means a board
40 comprised of members of the local community in which the juvenile

1 offender resides. The superior court shall appoint the members. The
2 boards shall consist of at least three and not more than seven
3 members. If possible, the board should include a variety of
4 representatives from the community, such as a law enforcement
5 officer, teacher or school administrator, high school student,
6 parent, and business owner, and should represent the cultural
7 diversity of the local community;

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

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

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

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

25 (18) "Juvenile offender" means any juvenile who has been found by
26 the juvenile court to have committed an offense, including a person
27 18 years of age or older over whom jurisdiction has been extended
28 under RCW 13.40.300;

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

32 (20) "Local sanctions" means one or more of the following: (a)
33 0-30 days of confinement; (b) 0-12 months of community supervision;
34 or (c) 0-150 hours of community restitution(~~(; or (d) \$0-\$500 fine)~~);

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

39 (22) "Monitoring and reporting requirements" means one or more of
40 the following: Curfews; requirements to remain at home, school, work,

1 or court-ordered treatment programs during specified hours;
2 restrictions from leaving or entering specified geographical areas;
3 requirements to report to the probation officer as directed and to
4 remain under the probation officer's supervision; and other
5 conditions or limitations as the court may require which may not
6 include confinement;

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

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

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

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

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

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

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

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

37 (28) "Restitution" means financial reimbursement by the offender
38 to the victim, and shall be limited to easily ascertainable damages
39 for injury to or loss of property, actual expenses incurred for
40 medical treatment for physical injury to persons, lost wages

1 resulting from physical injury, and costs of the victim's counseling
2 reasonably related to the offense. Restitution shall not include
3 reimbursement for damages for mental anguish, pain and suffering, or
4 other intangible losses. Nothing in this chapter shall limit or
5 replace civil remedies or defenses available to the victim or
6 offender;

7 (29) "Restorative justice" means practices, policies, and
8 programs informed by and sensitive to the needs of crime victims that
9 are designed to encourage offenders to accept responsibility for
10 repairing the harm caused by their offense by providing safe and
11 supportive opportunities for voluntary participation and
12 communication between the victim, the offender, their families, and
13 relevant community members;

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

16 (a) Physical restraint; or

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

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

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

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

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

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

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

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

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

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

19 (40) "Violent offense" means a violent offense as defined in RCW
20 9.94A.030;

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

23 **Sec. 16.** RCW 13.40.020 and 2021 c 328 s 5 are each amended to
24 read as follows:

25 For the purposes of this chapter:

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

34 (2) "Community-based rehabilitation" means one or more of the
35 following: Employment; attendance of information classes; literacy
36 classes; counseling, outpatient substance abuse treatment programs,
37 outpatient mental health programs, anger management classes,
38 education or outpatient treatment programs to prevent animal cruelty,
39 or other services including, when appropriate, restorative justice

1 programs; or attendance at school or other educational programs
2 appropriate for the juvenile as determined by the school district.
3 Placement in community-based rehabilitation programs is subject to
4 available funds;

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

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

8 ~~(b) Community)~~ community restitution not to exceed 150 hours of
9 community restitution;

10 (4) "Community restitution" means compulsory service, without
11 compensation, performed for the benefit of the community by the
12 offender as punishment for committing an offense. Community
13 restitution may be performed through public or private organizations
14 or through work crews;

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

28 (a) Community-based sanctions;

29 (b) Community-based rehabilitation;

30 (c) Monitoring and reporting requirements;

31 (d) Posting of a probation bond;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (15) "Intensive supervision program" means a parole program that
38 requires intensive supervision and monitoring, offers an array of
39 individualized treatment and transitional services, and emphasizes

1 community involvement and support in order to reduce the likelihood a
2 juvenile offender will commit further offenses;

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

10 (17) "Juvenile offender" means any juvenile who has been found by
11 the juvenile court to have committed an offense, including a person
12 18 years of age or older over whom jurisdiction has been extended
13 under RCW 13.40.300;

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

17 (19) "Local sanctions" means one or more of the following: (a)
18 0-30 days of confinement; (b) 0-12 months of community supervision;
19 or (c) 0-150 hours of community restitution(~~(; or (d) \$0-\$500 fine)~~);

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

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

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

36 (23) "Physical restraint" means the use of any bodily force or
37 physical intervention to control a juvenile offender or limit a
38 juvenile offender's freedom of movement in a way that does not
39 involve a mechanical restraint. Physical restraint does not include
40 momentary periods of minimal physical restriction by direct person-

1 to-person contact, without the aid of mechanical restraint,
2 accomplished with limited force and designed to:

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

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

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

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

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

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

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

32 (28) "Restorative justice" means practices, policies, and
33 programs informed by and sensitive to the needs of crime victims that
34 are designed to encourage offenders to accept responsibility for
35 repairing the harm caused by their offense by providing safe and
36 supportive opportunities for voluntary participation and
37 communication between the victim, the offender, their families, and
38 relevant community members;

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

1 (a) Physical restraint; or
2 (b) Mechanical device including but not limited to: Metal
3 handcuffs, plastic ties, ankle restraints, leather cuffs, other
4 hospital-type restraints, tasers, or batons;
5 (30) "Screening" means a process that is designed to identify a
6 child who is at risk of having mental health, substance abuse, or co-
7 occurring mental health and substance abuse disorders that warrant
8 immediate attention, intervention, or more comprehensive assessment.
9 A screening may be undertaken with or without the administration of a
10 formal instrument;
11 (31) "Secretary" means the secretary of the department;
12 (32) "Services" means services which provide alternatives to
13 incarceration for those juveniles who have pleaded or been
14 adjudicated guilty of an offense or have signed a diversion agreement
15 pursuant to this chapter;
16 (33) "Sex offense" means an offense defined as a sex offense in
17 RCW 9.94A.030;
18 (34) "Sexual motivation" means that one of the purposes for which
19 the respondent committed the offense was for the purpose of the
20 respondent's sexual gratification;
21 (35) "Surety" means an entity licensed under state insurance laws
22 or by the state department of licensing, to write corporate,
23 property, or probation bonds within the state, and justified and
24 approved by the superior court of the county having jurisdiction of
25 the case;
26 (36) "Transportation" means the conveying, by any means, of an
27 incarcerated pregnant youth from the institution or detention
28 facility to another location from the moment she leaves the
29 institution or detention facility to the time of arrival at the other
30 location, and includes the escorting of the pregnant incarcerated
31 youth from the institution or detention facility to a transport
32 vehicle and from the vehicle to the other location;
33 (37) "Violation" means an act or omission, which if committed by
34 an adult, must be proven beyond a reasonable doubt, and is punishable
35 by sanctions which do not include incarceration;
36 (38) "Violent offense" means a violent offense as defined in RCW
37 9.94A.030;
38 (39) "Youth court" means a diversion unit under the supervision
39 of the juvenile court.

1 **Sec. 17.** RCW 13.40.162 and 2020 c 249 s 1 are each amended to
2 read as follows:

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

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

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

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

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

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

20 (ii) The respondent's offense history;

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

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

25 (v) Other evaluation measures used.

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

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

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

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

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

39 (iv) Anticipated length of treatment; and

40 (v) Recommended crime-related prohibitions.

1 (c) ((The)) For good cause shown, the court on its own motion may
2 order, or on a motion by the state shall order, a second examination
3 regarding the offender's amenability to treatment. The evaluator
4 shall be selected by the party making the motion. ((The defendant
5 shall pay the cost of any second examination ordered unless the court
6 finds the defendant to be indigent in which case the state shall pay
7 the cost.))

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

21 (4) As a condition of the suspended disposition, the court may
22 impose the conditions of community supervision and other conditions,
23 including up to ((thirty)) 30 days of confinement and requirements
24 that the offender do any one or more of the following:

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

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

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

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

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

5 (f) Pay ~~((all court-ordered legal financial obligations,~~
6 ~~perform))~~ restitution and perform community restitution, or any
7 combination thereof;

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

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

12 (5) If the court orders ~~((twenty-four))~~ 24 hour, continuous
13 monitoring of the offender while on probation, the court shall
14 include the basis for this condition in its findings.

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

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

22 (c) The court shall send notice of the disposition and
23 restriction on attending the same school as the victim or victim's
24 siblings to the public or approved private school the juvenile will
25 attend, if known, or if unknown, to the approved private schools and
26 the public school district board of directors of the district in
27 which the juvenile resides or intends to reside. This notice must be
28 sent at the earliest possible date but not later than ~~((ten))~~ 10
29 calendar days after entry of the disposition.

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

38 (a) The nature of the offense committed, including the number of
39 victims and the length of the offense history;

40 (b) Any subsequent criminal history of the juvenile;

- 1 (c) The juvenile's compliance with supervision requirements;
2 (d) The length of time since the charged incident occurred;
3 (e) Any input from community corrections officers, juvenile
4 parole or probation officers, law enforcement, or treatment
5 providers;
6 (f) The juvenile's participation in sex offender treatment;
7 (g) The juvenile's participation in other treatment and
8 rehabilitative programs;
9 (h) The juvenile's stability in employment and housing;
10 (i) The juvenile's community and personal support system;
11 (j) Any risk assessments or evaluations prepared by a qualified
12 professional related to the juvenile;
13 (k) Any updated polygraph examination completed by the juvenile;
14 (l) Any input of the victim; and
15 (m) Any other factors the court may consider relevant.

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

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

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

30 (d) A sex offender therapist who examines or treats a juvenile
31 sex offender pursuant to this subsection does not have to be
32 certified by the department of health pursuant to chapter 18.155 RCW
33 if the therapist is a professional licensed under chapter 18.225 or
34 18.83 RCW and the treatment employed is evidence-based for sex
35 offender treatment, or if the court finds that: (i) The offender has
36 already moved to another state or plans to move to another state for
37 reasons other than circumventing the certification requirements; (ii)
38 no certified sex offender treatment providers or certified affiliate
39 sex offender treatment providers are available for treatment within a
40 reasonable geographical distance of the offender's home; and (iii)

1 the evaluation and treatment plan comply with this subsection and the
2 rules adopted by the department of health.

3 (9) (a) If the offender violates any condition of the disposition
4 or the court finds that the respondent is failing to make
5 satisfactory progress in treatment, the court may revoke the
6 suspension and order execution of the disposition or the court may
7 impose a penalty of up to (~~thirty~~) 30 days confinement for
8 violating conditions of the disposition.

9 (b) The court may order both execution of the disposition and up
10 to (~~thirty~~) 30 days confinement for the violation of the conditions
11 of the disposition.

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

15 (10) For purposes of this section, "victim" means any person who
16 has sustained emotional, psychological, physical, or financial injury
17 to person or property as a direct result of the crime charged.
18 "Victim" may also include a known parent or guardian of a victim who
19 is a minor child unless the parent or guardian is the perpetrator of
20 the offense.

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

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

27 **Sec. 18.** RCW 13.40.165 and 2019 c 325 s 5007 are each amended to
28 read as follows:

29 (1) The purpose of this disposition alternative is to ensure that
30 successful treatment options to reduce recidivism are available to
31 eligible youth, pursuant to RCW 71.24.615. It is also the purpose of
32 the disposition alternative to assure that minors in need of
33 substance use disorder, mental health, and/or co-occurring disorder
34 treatment receive an appropriate continuum of culturally relevant
35 care and treatment, including prevention and early intervention,
36 self-directed care, parent-directed care, and residential treatment.
37 To facilitate the continuum of care and treatment to minors in out-
38 of-home placements, all divisions of the department that provide
39 these services to minors shall jointly plan and deliver these

1 services. It is also the purpose of the disposition alternative to
2 protect the rights of minors against needless hospitalization and
3 deprivations of liberty and to enable treatment decisions to be made
4 in response to clinical needs and in accordance with sound
5 professional judgment. The mental health, substance abuse, and co-
6 occurring disorder treatment providers shall, to the extent possible,
7 offer services that involve minors' parents, guardians, and family.

8 (2) The court must consider eligibility for the substance use
9 disorder or mental health disposition alternative when a juvenile
10 offender is subject to a standard range disposition of local
11 sanctions or 15 to 36 weeks of confinement and has not committed an
12 A- or B+ offense, other than a first time B+ offense under chapter
13 69.50 RCW. The court, on its own motion or the motion of the state or
14 the respondent if the evidence shows that the offender may be
15 chemically dependent, substance abusing, or has significant mental
16 health or co-occurring disorders may order an examination by a
17 substance use disorder counselor from a substance use disorder
18 treatment facility approved under chapter 70.96A RCW or a mental
19 health professional as defined in chapter 71.34 RCW to determine if
20 the youth is chemically dependent, substance abusing, or suffers from
21 significant mental health or co-occurring disorders. (~~The offender
22 shall pay the cost of any examination ordered under this subsection
23 unless the court finds that the offender is indigent and no third
24 party insurance coverage is available, in which case the state shall
25 pay the cost.~~) The state shall pay the cost of any examination
26 ordered under this subsection unless third-party insurance coverage
27 is available.

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

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

- 38 (a) Whether inpatient and/or outpatient treatment is recommended;
39 (b) Availability of appropriate treatment;

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

4 (d) Anticipated length of treatment; and

5 (e) Recommended crime-related prohibitions.

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

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

19 (b) If the court determines that this disposition alternative is
20 appropriate, then the court shall impose the standard range for the
21 offense, or if the court concludes, and enters reasons for its
22 conclusion, that such disposition would effectuate a manifest
23 injustice, the court shall impose a disposition above the standard
24 range as indicated in option D of RCW 13.40.0357 if the disposition
25 is an increase from the standard range and the confinement of the
26 offender does not exceed a maximum of (~~fifty-two~~) 52 weeks, suspend
27 execution of the disposition, and place the offender on community
28 supervision for up to one year. As a condition of the suspended
29 disposition, the court shall require the offender to undergo
30 available outpatient drug/alcohol, mental health, or co-occurring
31 disorder treatment and/or inpatient mental health or drug/alcohol
32 treatment. The court shall only order inpatient treatment under this
33 section if a funded bed is available. If the inpatient treatment is
34 longer than (~~ninety~~) 90 days, the court shall hold a review hearing
35 every (~~thirty~~) 30 days beyond the initial (~~ninety~~) 90 days. The
36 respondent may appear telephonically at these review hearings if in
37 compliance with treatment. As a condition of the suspended
38 disposition, the court may impose conditions of community supervision
39 and other sanctions, including up to (~~thirty~~) 30 days of
40 confinement, (~~one hundred fifty~~) 150 hours of community

1 restitution, and payment of (~~legal financial obligations and~~)
2 restitution.

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

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

13 If the offender violates any condition of the disposition or the
14 court finds that the respondent is failing to make satisfactory
15 progress in treatment, the court may impose sanctions pursuant to RCW
16 13.40.200 or revoke the suspension and order execution of the
17 disposition. The court shall give credit for any confinement time
18 previously served if that confinement was for the offense for which
19 the suspension is being revoked.

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

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

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

33 (11) A disposition under this section is not appealable under RCW
34 13.40.230.

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

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

4 **Sec. 19.** RCW 13.40.180 and 2012 c 177 s 3 are each amended to
5 read as follows:

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

9 (a) Where the offenses were committed through a single act or
10 omission, omission, or through an act or omission which in itself
11 constituted one of the offenses and also was an element of the other,
12 the aggregate of all the terms shall not exceed (~~one hundred fifty~~)
13 150 percent of the term imposed for the most serious offense;

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

16 (c) The aggregate of all consecutive terms of community
17 supervision shall not exceed two years in length, or require any
18 payment of (~~more than two hundred dollars in~~) fines or the
19 performance of more than (~~two hundred~~) 200 hours of community
20 restitution.

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

25 **Sec. 20.** RCW 13.40.192 and 2015 c 265 s 7 are each amended to
26 read as follows:

27 (1) If a juvenile is ordered to pay (~~legal financial~~
28 ~~obligations, including fines, penalty assessments, attorneys' fees,~~
29 ~~court costs, and~~) restitution, the money judgment remains
30 enforceable for a period of (~~ten~~) 10 years. When the juvenile
31 reaches the age of (~~eighteen~~) 18 years or at the conclusion of
32 juvenile court jurisdiction, whichever occurs later, the superior
33 court clerk must docket the remaining balance of the juvenile's
34 (~~legal financial obligations~~) restitution in the same manner as
35 other judgments for the payment of money. The judgment remains valid
36 and enforceable until (~~ten~~) 10 years from the date of its
37 imposition. The clerk of the superior court may seek extension of the
38 judgment for (~~legal financial obligations, including crime victims'~~

1 ~~assessments,~~) restitution in the same manner as RCW 6.17.020 for
2 purposes of collection as allowed under RCW 36.18.190.

3 (2) A (~~respondent under obligation to pay~~) judgment against a
4 juvenile for any legal financial obligation(~~s~~) other than
5 restitution(~~, the victim penalty assessment set forth in RCW~~
6 ~~7.68.035, or the crime laboratory analysis fee set forth in RCW~~
7 ~~43.43.690 may petition the court for modification or relief from~~
8 ~~those legal financial obligations and interest accrued on those~~
9 ~~obligations for good cause shown, including inability to pay. The~~
10 ~~court shall consider factors such as, but not limited to~~
11 ~~incarceration and a respondent's other debts, including restitution,~~
12 ~~when determining a respondent's ability to pay~~) including, but not
13 limited to, fines, penalty assessments, attorneys' fees, court costs,
14 and other administrative fees, is not enforceable after the effective
15 date of this section. The superior court clerk shall not accept
16 payments from a respondent who was ordered to pay legal financial
17 obligations, including fines, penalty assessments, attorneys' fees,
18 and court costs after the effective date of this section.

19 **Sec. 21.** RCW 13.40.200 and 2004 c 120 s 7 are each amended to
20 read as follows:

21 (1) When a respondent fails to comply with an order of
22 restitution, community supervision, (~~penalty assessments,~~) or
23 confinement of less than (~~thirty~~) 30 days, the court upon motion of
24 the prosecutor or its own motion, may modify the order after a
25 hearing on the violation.

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

1 (3) If the court finds that a respondent has willfully violated
2 the terms of an order pursuant to subsections (1) and (2) of this
3 section, it may impose a penalty of up to ~~((thirty))~~ 30 days'
4 confinement. Penalties for multiple violations occurring prior to the
5 hearing shall not be aggregated to exceed ~~((thirty))~~ 30 days'
6 confinement. Regardless of the number of times a respondent is
7 brought to court for violations of the terms of a single disposition
8 order, the combined total number of days spent by the respondent in
9 detention shall never exceed the maximum term to which an adult could
10 be sentenced for the underlying offense.

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

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

28 NEW SECTION. **Sec. 22.** Nothing in this act requires a court to
29 refund or reimburse amounts previously paid towards legal financial
30 obligations, interests on legal financial obligations, or any other
31 costs.

32 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
33 each repealed:

- 34 (1) RCW 13.40.056 (Nonrefundable bail fee) and 1995 c 395 s 9;
35 (2) RCW 13.40.085 (Diversion services costs—Fees—Payment by
36 parent or legal guardian) and 1993 c 171 s 1;
37 (3) RCW 13.40.198 (Penalty assessments—Jurisdiction of court) and
38 2000 c 71 s 1; and

1 (4) RCW 13.40.640 (Youth court nonrefundable fee) and 2002 c 237
2 s 15.

3 NEW SECTION. **Sec. 24.** Section 15 of this act takes effect when
4 section 3, chapter 206, Laws of 2021 takes effect.

5 NEW SECTION. **Sec. 25.** Section 16 of this act expires when
6 section 15 of this act takes effect.

7 NEW SECTION. **Sec. 26.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2023, in the omnibus appropriations act, this
10 act is null and void.

11 NEW SECTION. **Sec. 27.** Except for section 15 of this act, this
12 act is necessary for the immediate preservation of the public peace,
13 health, or safety, or support of the state government and its
14 existing public institutions, and takes effect July 1, 2023."

ESHB 1169 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/12/2023

15 On page 1, line 1 of the title, after "obligations;" strike the
16 remainder of the title and insert "amending RCW 7.68.035, 43.43.7532,
17 43.43.7541, 7.68.240, 9.92.060, 9.94A.6333, 9.94B.040, 9.95.210,
18 10.01.180, 10.82.090, 13.40.020, 13.40.162, 13.40.165, 13.40.180,
19 13.40.192, and 13.40.200; reenacting and amending RCW 9.94A.760 and
20 13.40.020; adding a new section to chapter 7.68 RCW; adding a new
21 section to chapter 13.40 RCW; creating new sections; repealing RCW
22 13.40.056, 13.40.085, 13.40.198, and 13.40.640; providing an
23 effective date; providing a contingent effective date; providing a
24 contingent expiration date; and declaring an emergency."

--- END ---