

2 **ESHB 1198** - S COMM AMD
3 By Committee on Law & Justice

4 ADOPTED AS AMENDED BY 000595, 000596, 000788 - 4/15/93

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

7 "**Sec. 1.** RCW 13.40.020 and 1990 1st ex.s. c 12 s 1 are each
8 amended to read as follows:

9 For the purposes of this chapter:

10 (1) "Serious offender" means a person fifteen years of age or older
11 who has committed an offense which if committed by an adult would be:

12 (a) A class A felony, or an attempt to commit a class A felony;

13 (b) Manslaughter in the first degree; or

14 (c) Assault in the second degree, extortion in the first degree,
15 child molestation in the second degree, kidnapping in the second
16 degree, robbery in the second degree, residential burglary, or burglary
17 in the second degree, where such offenses include the infliction of
18 bodily harm upon another or where during the commission of or immediate
19 withdrawal from such an offense the perpetrator is armed with a deadly
20 weapon or firearm as defined in RCW 9A.04.110;

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

26 (3) "Community supervision" means an order of disposition by the
27 court of an adjudicated youth not committed to the department. A
28 community supervision order for a single offense may be for a period of
29 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
30 one year for other offenses (~~and~~). Community supervision is an
31 individualized program comprised of one or more of the following:

32 (a) Community-based sanctions;

33 (b) Community-based rehabilitation;

34 (c) Monitoring and reporting requirements;

35 (4) Community-based sanctions may include one or more of the
36 following:

- 1 (a) A fine, not to exceed one hundred dollars;
2 (b) Community service not to exceed one hundred fifty hours of
3 service;

4 ~~((e))~~ (5) "Community-based rehabilitation" means one or more of
5 the following: Attendance of information classes;

6 ~~((d) Counseling; or~~

7 ~~(e) Such other services to the extent funds are available for such~~
8 ~~services,))~~ counseling, outpatient substance abuse treatment programs,
9 outpatient mental health programs, anger management classes, or other
10 services; or attendance at school or other educational programs
11 appropriate for the juvenile as determined by the school district.
12 Placement in community-based rehabilitation programs is subject to
13 available funds;

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

22 ~~((4))~~ (7) "Confinement" means physical custody by the department
23 of social and health services in a facility operated by or pursuant to
24 a contract with the state, or physical custody in a detention facility
25 operated by or pursuant to a contract with any county. The county may
26 operate or contract with vendors to operate county detention
27 facilities. The department may operate or contract to operate
28 detention facilities for juveniles committed to the department.
29 Pretrial confinement or confinement of less than thirty-one days
30 imposed as part of a disposition or modification order may be served
31 consecutively or intermittently, in the discretion of the court and may
32 be served in a detention group home, detention foster home, or with
33 electronic monitoring. Detention group homes and detention foster
34 homes used for confinement shall not also be used for the placement of
35 dependent children. Confinement in detention group homes and detention
36 foster homes and electronic monitoring are subject to available funds;

37 ~~((5))~~ (8) "Court", when used without further qualification, means
38 the juvenile court judge(s) or commissioner(s);

1 (~~(6)~~) (9) "Criminal history" includes all criminal complaints
2 against the respondent for which, prior to the commission of a current
3 offense:

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

8 (b) The criminal complaint was diverted by a prosecutor pursuant to
9 the provisions of this chapter on agreement of the respondent and after
10 an advisement to the respondent that the criminal complaint would be
11 considered as part of the respondent's criminal history;

12 (~~(7)~~) (10) "Department" means the department of social and health
13 services;

14 (~~(8)~~) (11) "Detention facility" means a county facility for the
15 physical confinement of a juvenile alleged to have committed an offense
16 or an adjudicated offender subject to a disposition or modification
17 order;

18 (12) "Diversion unit" means any probation counselor who enters into
19 a diversion agreement with an alleged youthful offender, or any other
20 person or entity except a law enforcement official or entity, with whom
21 the juvenile court administrator has contracted to arrange and
22 supervise such agreements pursuant to RCW (~~(13.04.040, as now or~~
23 ~~hereafter amended,)~~) 13.40.080, or any person or entity specially
24 funded by the legislature to arrange and supervise diversion agreements
25 in accordance with the requirements of this chapter;

26 (~~(9)~~) (13) "Institution" means a juvenile facility established
27 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

28 (~~(10)~~) (14) "Juvenile," "youth," and "child" mean any individual
29 who is under the chronological age of eighteen years and who has not
30 been previously transferred to adult court;

31 (~~(11)~~) (15) "Juvenile offender" means any juvenile who has been
32 found by the juvenile court to have committed an offense, including a
33 person eighteen years of age or older over whom jurisdiction has been
34 extended under RCW 13.40.300;

35 (~~(12)~~) (16) "Manifest injustice" means a disposition that would
36 either 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;

1 (~~(13)~~) (17) "Middle offender" means a person who has committed an
2 offense and who is neither a minor or first offender nor a serious
3 offender;

4 (~~(14)~~) (18) "Minor or first offender" means a person sixteen
5 years of age or younger whose current offense(s) and criminal history
6 fall entirely within one of the following categories:

7 (a) Four misdemeanors;

8 (b) Two misdemeanors and one gross misdemeanor;

9 (c) One misdemeanor and two gross misdemeanors;

10 (d) Three gross misdemeanors;

11 (e) One class C felony except manslaughter in the second degree and
12 one misdemeanor or gross misdemeanor;

13 (f) One class B felony except: Any felony which constitutes an
14 attempt to commit a class A felony; manslaughter in the first degree;
15 assault in the second degree; extortion in the first degree; indecent
16 liberties; kidnapping in the second degree; robbery in the second
17 degree; burglary in the second degree; residential burglary; vehicular
18 homicide; or arson in the second degree.

19 For purposes of this definition, current violations shall be
20 counted as misdemeanors;

21 (~~(15)~~) (19) "Offense" means an act designated a violation or a
22 crime if committed by an adult under the law of this state, under any
23 ordinance of any city or county of this state, under any federal law,
24 or under the law of another state if the act occurred in that state;

25 (~~(16)~~) (20) "Respondent" means a juvenile who is alleged or
26 proven to have committed an offense;

27 (~~(17)~~) (21) "Restitution" means financial reimbursement by the
28 offender to the victim, and shall be limited to easily ascertainable
29 damages for injury to or loss of property, actual expenses incurred for
30 medical treatment for physical injury to persons, lost wages resulting
31 from physical injury, and costs of the victim's counseling reasonably
32 related to the offense if the offense is a sex offense. Restitution
33 shall not include reimbursement for damages for mental anguish, pain
34 and suffering, or other intangible losses. Nothing in this chapter
35 shall limit or replace civil remedies or defenses available to the
36 victim or offender;

37 (~~(18)~~) (22) "Secretary" means the secretary of the department of
38 social and health services;

1 (~~(19)~~) (23) "Services" mean services which provide alternatives
2 to incarceration for those juveniles who have pleaded or been
3 adjudicated guilty of an offense or have signed a diversion agreement
4 pursuant to this chapter;

5 (~~(20)~~) (24) "Sex offense" means an offense defined as a sex
6 offense in RCW 9.94A.030;

7 (~~(21)~~) (25) "Sexual motivation" means that one of the purposes
8 for which the respondent committed the offense was for the purpose of
9 his or her sexual gratification;

10 (~~(22)~~) (26) "Foster care" means temporary physical care in a
11 foster family home or group care facility as defined in RCW 74.15.020
12 and licensed by the department, or other legally authorized care;

13 (~~(23)~~) (27) "Violation" means an act or omission, which if
14 committed by an adult, must be proven beyond a reasonable doubt, and is
15 punishable by sanctions which do not include incarceration.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.40 RCW
17 to read as follows:

18 The department shall within existing funds collect such data as may
19 be necessary to monitor any disparity in processing or disposing of
20 cases involving juvenile offenders due to economic, gender, geographic,
21 or racial factors that may result from implementation of section 1,
22 chapter . . . , Laws of 1993 (section 1 of this act). Beginning
23 December 1, 1993, the department shall report annually to the
24 legislature on economic, gender, geographic, or racial
25 disproportionality in the rates of arrest, detention, trial, treatment,
26 and disposition in the state's juvenile justice system. The report
27 shall cover the preceding calendar year. The annual report shall
28 identify the causes of such disproportionality and shall specifically
29 point out any economic, gender, geographic, or racial
30 disproportionality resulting from implementation of section 1, chapter
31 . . . , Laws of 1993 (section 1 of this act).

32 NEW SECTION. **Sec. 3.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected."

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6 On page 1, line 2 of the title, after "force;" strike the remainder
7 of the title and insert "amending RCW 13.40.020; and adding a new
8 section to chapter 13.40 RCW."

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