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HOUSE BILL 2449

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State of Washington                      53rd Legislature                      1994 Regular Session

By Representatives Stevens, Chandler, Horn, Sheahan and Padden

Read first time 01/14/94. Referred to Committee on Judiciary.

1            AN ACT Relating to offenders under age twenty-one; amending RCW  
2 13.40.040; adding a new section to chapter 69.50 RCW; adding a new  
3 section to chapter 13.40 RCW; creating a new section; and prescribing  
4 penalties.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 69.50 RCW  
7 to read as follows:

8            (1) It is unlawful for a person under the age of twenty-one years  
9 to be in a public place, or to be in a motor vehicle in a public place,  
10 while exhibiting the effects of having consumed a controlled substance  
11 or a legend drug. For purposes of this subsection, exhibiting the  
12 effects of having consumed a controlled substance or a legend drug  
13 means that a person either has: (a) The odor of marijuana on his or  
14 her breath; or (b) is in possession of or close proximity to a  
15 container that has or recently had a controlled substance or a legend  
16 drug in it; or (c) by speech, manner, appearance, behavior, lack of  
17 coordination, or otherwise, exhibits that he or she is under the  
18 influence of a controlled substance or a legend drug. This subsection  
19 does not apply if the person is in the presence of a parent or guardian

1 or has consumed or is consuming a controlled substance or a legend drug  
2 under circumstances described in subsection (2) of this section.

3 (2) This section does not apply to a controlled substance or a  
4 legend drug given or permitted to be given to a person under the age of  
5 twenty-one years if the controlled substance or legend drug is given  
6 for medicinal purposes to the person by a parent, guardian, physician,  
7 or dentist.

8 (3) The general penalty for a violation of this section shall be  
9 the same as the general penalty for a violation of RCW 66.44.270(2)(b)  
10 as provided in RCW 66.44.180.

11 NEW SECTION. **Sec. 2.** The juvenile dispositions standards  
12 commission shall recommend to the legislature by November 1, 1994, a  
13 disposition scheme for juvenile offenders adjudicated of a violation of  
14 section 1 of this act or RCW 66.44.270.

15 **Sec. 3.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to read  
16 as follows:

17 (1) A juvenile may be taken into custody:

18 (a) Pursuant to a court order if a complaint is filed with the  
19 court alleging, and the court finds probable cause to believe, that the  
20 juvenile has committed an offense or has violated terms of a  
21 disposition order or release order; ~~((or))~~

22 (b) Without a court order, by a law enforcement officer if grounds  
23 exist for the arrest of an adult in identical circumstances. Admission  
24 to, and continued custody in, a court detention facility shall be  
25 governed by subsection (2) of this section; ~~((or))~~

26 (c) Pursuant to a court order that the juvenile be held as a  
27 material witness; ~~((or))~~

28 (d) Where the secretary or the secretary's designee has suspended  
29 the parole of a juvenile offender; or

30 (e) The officer has probable cause to believe that the offender has  
31 committed a violation of section 1 of this act or RCW 66.44.270.

32 (2) A juvenile may not be held in detention unless there is  
33 probable cause to believe that:

34 (a) The juvenile has committed an offense or has violated the terms  
35 of a disposition order; and

36 (i) The juvenile will likely fail to appear for further  
37 proceedings; or

1 (ii) Detention is required to protect the juvenile from himself or  
2 herself; or

3 (iii) The juvenile is a threat to community safety; or

4 (iv) The juvenile will intimidate witnesses or otherwise unlawfully  
5 interfere with the administration of justice; or

6 (v) The juvenile has committed a crime while another case was  
7 pending; or

8 (b) The juvenile is a fugitive from justice; or

9 (c) The juvenile's parole has been suspended or modified; or

10 (d) The juvenile is a material witness.

11 (3) Upon a finding that members of the community have threatened  
12 the health of a juvenile taken into custody, at the juvenile's request  
13 the court may order continued detention pending further order of the  
14 court.

15 (4) A juvenile detained under this section may be released upon  
16 posting bond set by the court. A court authorizing such a release  
17 shall issue an order containing a statement of conditions imposed upon  
18 the juvenile and shall set the date of his or her next court  
19 appearance. The court shall advise the juvenile of any conditions  
20 specified in the order and may at any time amend such an order in order  
21 to impose additional or different conditions of release upon the  
22 juvenile or to return the juvenile to custody for failing to conform to  
23 the conditions imposed. Failure to appear on the date scheduled by the  
24 court pursuant to this section shall constitute the crime of bail  
25 jumping.

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

28 (1) A juvenile who is taken into custody under RCW 13.40.040 may be  
29 required to perform field sobriety tests or submit to a breathalyzer or  
30 other drug or alcohol testing, if a law enforcement officer has  
31 probable cause to believe that: (a) The juvenile has consumed alcohol  
32 or drugs; and (b) either the juvenile is under the influence of the  
33 alcohol or drugs or the alcohol or drugs might still be detected in the  
34 juvenile.

35 (2) Results of the testing may be used as evidence to prove an  
36 allegation against a juvenile in an appropriate case and may be

1 considered by the court when determining an appropriate disposition for  
2 the juvenile upon adjudication for an offense.

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