
SUBSTITUTE HOUSE BILL 2536

State of Washington

53rd Legislature

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By House Committee on Corrections (originally sponsored by Representatives Morris, Long, Ballasiotes, Lemmon, Campbell, Karahalios, Edmondson, Sheldon, Mastin, Springer, Conway, L. Johnson, Moak, Ogden, Padden, Lisk, Appelwick, Brough, Brumsickle, Johanson, Van Luven, Quall, Rayburn, Talcott, Forner, Cooke and Wood)

Read first time 02/04/94.

1 AN ACT Relating to juvenile offenders; amending RCW 43.20A.090,
2 13.40.020, 13.40.025, and 13.40.027; adding new sections to chapter
3 13.40 RCW; creating new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the incidence of
6 juvenile crime has escalated at an alarming rate, and that the state's
7 juvenile rehabilitation system needs major adjustments in order to
8 respond.

9 The current system lacks adequate bed space, adequate population
10 forecasting, an effective sentencing scheme, an appropriate inmate
11 classification system, and sufficient judicial discretion in sentencing
12 young offenders.

13 These defects have often resulted in sentences that are driven by
14 fiscal policy, and not by rehabilitative or punitive principles; and

15 Washington must develop a juvenile offender rehabilitation system
16 that truly emphasizes public safety, offender responsibility, and
17 offender rehabilitation.

1 **Sec. 2.** RCW 43.20A.090 and 1970 ex.s. c 18 s 7 are each amended to
2 read as follows:

3 The secretary shall appoint a deputy secretary, a department
4 personnel director and such assistant secretaries as shall be needed to
5 administer the department. The deputy secretary shall have charge and
6 general supervision of the department in the absence or disability of
7 the secretary, and in case of a vacancy in the office of secretary,
8 shall continue in charge of the department until a successor is
9 appointed and qualified, or until the governor shall appoint an acting
10 secretary. The secretary shall appoint an assistant secretary to
11 administer the juvenile rehabilitation responsibilities required of the
12 department by chapters 13.04, 13.40, and 13.50 RCW. The officers
13 appointed under this section, and exempt from the provisions of the
14 state civil service law by the terms of RCW 41.06.076, shall be paid
15 salaries to be fixed by the governor in accordance with the procedure
16 established by law for the fixing of salaries for officers exempt from
17 the operation of the state civil service law.

18 **Sec. 3.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read
19 as follows:

20 For the purposes of this chapter:

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

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

24 (b) Manslaughter in the first degree; or

25 (c) Assault in the second degree, extortion in the first degree,
26 child molestation in the second degree, kidnapping in the second
27 degree, robbery in the second degree, residential burglary, or burglary
28 in the second degree, where such offenses include the infliction of
29 bodily harm upon another or where during the commission of or immediate
30 withdrawal from such an offense the perpetrator is armed with a deadly
31 weapon or firearm as defined in RCW 9A.04.110;

32 (2) "Community service" means compulsory service, without
33 compensation, performed for the benefit of the community by the
34 offender as punishment for committing an offense. Community service
35 may be performed through public or private organizations or through
36 work crews;

37 (3) "Community supervision" means an order of disposition by the
38 court of an adjudicated youth not committed to the department. A

1 community supervision order for a single offense may be for a period of
2 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
3 one year for other offenses. Community supervision is an
4 individualized program comprised of one or more of the following:

5 (a) Community-based sanctions;

6 (b) Community-based rehabilitation;

7 (c) Monitoring and reporting requirements;

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

10 (a) A fine, not to exceed one hundred dollars;

11 (b) Community service not to exceed one hundred fifty hours of
12 service;

13 (5) "Community-based rehabilitation" means one or more of the
14 following: Attendance of information classes; counseling, outpatient
15 substance abuse treatment programs, outpatient mental health programs,
16 anger management classes, or other services; or attendance at school or
17 other educational programs appropriate for the juvenile as determined
18 by the school district. Placement in community-based rehabilitation
19 programs is subject to available funds;

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

28 (7) "Confinement" means physical custody by the department of
29 social and health services in a facility operated by or pursuant to a
30 contract with the state, or physical custody in a detention facility
31 operated by or pursuant to a contract with any county. The county may
32 operate or contract with vendors to operate county detention
33 facilities. The department may operate or contract to operate
34 detention facilities for juveniles committed to the department.
35 Pretrial confinement or confinement of less than thirty-one days
36 imposed as part of a disposition or modification order may be served
37 consecutively or intermittently, in the discretion of the court and may
38 be served in a detention group home, detention foster home, or with
39 electronic monitoring. Detention group homes and detention foster

1 homes used for confinement shall not also be used for the placement of
2 dependent children. Confinement in detention group homes and detention
3 foster homes and electronic monitoring are subject to available funds;

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

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

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

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

16 (10) "Department" means the department of social and health
17 services;

18 (11) "Detention facility" means a county facility for the physical
19 confinement of a juvenile alleged to have committed an offense or an
20 adjudicated offender subject to a disposition or modification order and
21 includes a county group home, foster care home, inpatient drug
22 treatment program, locally or regionally operated juvenile boot camp,
23 and electronic monitoring;

24 (12) "Diversion unit" means any probation counselor who enters into
25 a diversion agreement with an alleged youthful offender, or any other
26 person or entity except a law enforcement official or entity, with whom
27 the juvenile court administrator has contracted to arrange and
28 supervise such agreements pursuant to RCW 13.40.080, or any person or
29 entity specially funded by the legislature to arrange and supervise
30 diversion agreements in accordance with the requirements of this
31 chapter;

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

34 (14) "Juvenile," "youth," and "child" mean any individual who is
35 under the chronological age of eighteen years and who has not been
36 previously transferred to adult court;

37 (15) "Juvenile offender" means any juvenile who has been found by
38 the juvenile court to have committed an offense, including a person

1 eighteen years of age or older over whom jurisdiction has been extended
2 under RCW 13.40.300;

3 (16) "Manifest injustice" means a disposition that would either
4 impose an excessive penalty on the juvenile, or would impose a serious,
5 and clear danger to society in light of the purposes of this chapter or
6 would fail to promote the juvenile's rehabilitative needs;

7 (17) "Middle offender" means a person who has committed an offense
8 and who is neither a minor or first offender nor a serious offender;

9 (18) "Minor or first offender" means a person sixteen years of age
10 or younger whose current offense(s) and criminal history fall entirely
11 within one of the following categories:

12 (a) Four misdemeanors;

13 (b) Two misdemeanors and one gross misdemeanor;

14 (c) One misdemeanor and two gross misdemeanors;

15 (d) Three gross misdemeanors;

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

18 (f) One class B felony except: Any felony which constitutes an
19 attempt to commit a class A felony; manslaughter in the first degree;
20 assault in the second degree; extortion in the first degree; indecent
21 liberties; kidnapping in the second degree; robbery in the second
22 degree; burglary in the second degree; residential burglary; vehicular
23 homicide; or arson in the second degree.

24 For purposes of this definition, current violations shall be
25 counted as misdemeanors;

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

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

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

1 shall limit or replace civil remedies or defenses available to the
2 victim or offender;

3 (22) "Secretary" means the secretary of the department of social
4 and health services;

5 (23) "Services" mean services which provide alternatives to
6 incarceration for those juveniles who have pleaded or been adjudicated
7 guilty of an offense or have signed a diversion agreement pursuant to
8 this chapter;

9 (24) "Sex offense" means an offense defined as a sex offense in RCW
10 9.94A.030;

11 (25) "Sexual motivation" means that one of the purposes for which
12 the respondent committed the offense was for the purpose of his or her
13 sexual gratification;

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

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

20 (28) "Assistant secretary" means the assistant secretary for
21 juvenile rehabilitation within the department of social and health
22 services.

23 NEW SECTION. Sec. 4. A new section is added to chapter 13.40 RCW
24 to read as follows:

25 The assistant secretary shall manage and administer the
26 department's juvenile rehabilitation responsibilities, including but
27 not limited to the operation of all state institutions or facilities
28 used for juvenile rehabilitation.

29 The assistant secretary shall:

30 (1) Prepare a biennial budget request sufficient to meet the
31 confinement and rehabilitative needs of the juvenile rehabilitation
32 program, as forecast by the office of financial management;

33 (2) Create by rule a formal system for inmate classification. This
34 classification system shall consider:

35 (a) Public safety;

36 (b) Internal security and staff safety; and

37 (c) Rehabilitative resources both within and outside the
38 department;

1 (3) Develop substance abuse treatment programs for all state
2 juvenile rehabilitation facilities and institutions;

3 (4) Develop vocational education and instruction programs at all
4 state juvenile rehabilitation facilities and institutions;

5 (5) Work with local jurisdictions to develop regional facilities
6 with a variety of custody levels;

7 (6) Develop by rule effective disciplinary policies to maintain
8 order within institutions; and

9 (7) Develop a comprehensive diagnostic evaluation process to be
10 used at intake, including but not limited to evaluation for substance
11 addiction or abuse, literacy, learning disabilities, fetal alcohol
12 syndrome or effect, and mental health.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40 RCW
14 to read as follows:

15 The assistant secretary shall review the vocational education
16 curriculum, facilities, and teaching personnel in all juvenile
17 residential programs and report to the legislature by December 12,
18 1994. The report shall include an assessment of the number and types
19 of vocational programs currently available, and the status of
20 buildings, teaching personnel, and equipment currently used for
21 vocational training. The report shall also contain an action plan for
22 implementing a state-wide uniform prevocational and vocational
23 education program, including but not limited to, a projection of the
24 need for the programs for both female and male juvenile offenders, the
25 number of students that could benefit from the programs, projected
26 vocational trade needs, physical plant modifications or building needs,
27 equipment needs, teaching personnel needs, and estimated costs. In
28 addition, the report shall identify how the department can develop
29 vocational programs jointly with trade associations, trade unions, and
30 other state, local, and federal agencies. The department shall also
31 identify businesses and industries potentially interested in working
32 with the program.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.40 RCW
34 to read as follows:

35 The assistant secretary shall issue arrest warrants for juveniles
36 who escape from department residential custody. These arrest warrants
37 shall authorize any law enforcement, probation and parole, or peace

1 officer of this state, or any other state where the juvenile is
2 located, to arrest the juvenile and to place the juvenile in physical
3 custody pending the juvenile's return to confinement in a state
4 juvenile rehabilitation facility.

5 NEW SECTION. **Sec. 7.** The legislature finds that juvenile violence
6 and crime are serious problems. The legislature finds that the current
7 system for establishing juvenile disposition standards and related
8 statutes for juvenile offenders must be improved. The legislature
9 further finds that the juvenile disposition standards commission will
10 benefit from additional representation from organizations concerned
11 with juvenile justice. The legislature finds that an independent
12 juvenile disposition standards commission will improve the
13 effectiveness and efficiency of the juvenile justice. The legislature
14 finds that a closer connection between the juvenile disposition
15 standards commission and the sentencing guidelines commission will
16 assist the juvenile disposition standards commission in performing its
17 increased responsibilities. Authorizing the juvenile disposition
18 standards commission to access staff of the sentencing guidelines
19 commission will permit the juvenile disposition standards commission to
20 take advantage of an already operating system and economies of scale.

21 **Sec. 8.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
22 as follows:

23 (1) There is established a juvenile disposition standards
24 commission to propose disposition standards to the legislature in
25 accordance with RCW 13.40.030 and perform the other responsibilities
26 set forth in this chapter.

27 (2) (~~The commission shall be composed of the secretary or the~~
28 ~~secretary's designee and the following nine members~~) The voting
29 membership of the commission shall be appointed by the governor,
30 subject to confirmation by the senate. The voting membership shall
31 consist of the following:

32 (a) ((A)) Two superior court judges;

33 (b) ((a)) Two prosecuting ((attorney)) or deputy prosecuting
34 attorneys;

35 (c) A law enforcement officer;

36 (d) An administrator of juvenile court services;

1 (e) ~~((a))~~ Two public defenders actively practicing in juvenile
2 court;

3 (f) A county legislative official or county executive; ~~((and))~~

4 (g) Three other persons who have demonstrated significant interest
5 in the adjudication and disposition of juvenile offenders; and

6 (h) The secretary of the department or the secretary's designee.

7 In addition to the voting members, the governor shall appoint,
8 subject to confirmation by the senate, one member from each of the two
9 largest caucuses of both the senate and the house of representatives,
10 who shall be nonvoting members.

11 In making the appointments, the governor shall seek the
12 recommendations of the association of superior court judges in respect
13 to the members who ~~((is a))~~ are superior court judges; of Washington
14 prosecutors in respect to the prosecuting ~~((attorney))~~ or deputy
15 prosecuting attorney members; of the Washington association of sheriffs
16 and police chiefs in respect to the member who is a law enforcement
17 officer; of juvenile court administrators in respect to the member who
18 is a juvenile court administrator; and of the state bar association in
19 respect to the public defender member; and of the Washington
20 association of counties in respect to the member who is either a county
21 legislative official or county executive.

22 (3) The ~~((secretary or the secretary's designee))~~ governor shall
23 ~~((serve as chairman))~~ designate the chair of the commission.

24 (4) The secretary shall serve on the commission during the
25 secretary's tenure as secretary of the department. The term of the
26 remaining members of the commission shall be three years. The initial
27 terms shall be determined by lot conducted at the commission's first
28 meeting as follows: (a) Four members shall serve ~~((a two-year))~~ one-
29 year terms; ~~((and))~~ (b) four members shall serve ~~((a three-year))~~ two-
30 year terms; and (c) four members shall serve three-year terms. The
31 members of the legislature shall serve two-year terms, or until they
32 cease to be members of the house from which they were appointed,
33 whichever happens first. In the event of a vacancy, the appointing
34 authority shall designate a new member to complete the remainder of the
35 unexpired term.

36 (5) Commission members shall be reimbursed for travel expenses as
37 provided in RCW 43.03.050 and 43.03.060. Members shall be compensated
38 in accordance with RCW 43.03.240.

39 (6) The commission shall meet at least once every three months.

1 (7) At least twice annually, the commission shall conduct a joint
2 meeting with the sentencing guidelines commission.

3 **Sec. 9.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
4 as follows:

5 (1) It is the responsibility of the commission to: (a)(i) Evaluate
6 the effectiveness of existing disposition standards and related
7 statutes in implementing policies set forth in RCW 13.40.010 generally,
8 (ii) specifically review the guidelines relating to the confinement of
9 minor and first offenders as well as the use of diversion, and (iii)
10 review the application of current and proposed juvenile sentencing
11 standards and guidelines for potential adverse impacts on the
12 sentencing outcomes of racial and ethnic minority youth; (b) solicit
13 the comments and suggestions of the juvenile justice community
14 concerning disposition standards; ~~((and))~~ (c) study the efficacy of
15 disposition alternatives such as deferred adjudication and suspended
16 dispositions; and (d) make recommendations to the legislature regarding
17 disposition alternatives and revisions or modifications of the
18 disposition standards in accordance with RCW 13.40.030. The
19 evaluations and recommendations shall be submitted to the legislature
20 on December 1st of each ~~((even-numbered))~~ year ~~((thereafter))~~.

21 ~~((It is the responsibility of the department to:—(a) Provide~~
22 ~~the commission with available data concerning the implementation of the~~
23 ~~disposition standards and related statutes and their effect on the~~
24 ~~performance of the department's responsibilities relating to juvenile~~
25 ~~offenders; (b) at the request of the commission, provide technical and~~
26 ~~administrative assistance to the commission in the performance of its~~
27 ~~responsibilities; and (c) provide the commission and legislature with~~
28 ~~recommendations for modification of the disposition standards.))~~ The
29 commission shall (a) serve as a clearinghouse and information center
30 for the collection, preparation, analysis, and dissemination of
31 information on state and local juvenile disposition practices; (b)
32 develop and maintain a computerized sentencing information system
33 consisting of offender, offense, history, and disposition information
34 entered from judgment and disposition forms for all juvenile offenders;
35 and (c) conduct ongoing research regarding disposition guidelines, use
36 of commitment, detention, plea bargaining, and other matters relating
37 to the improvement of the juvenile justice system.

1 (3) The commission shall use the staff, resources, and executive
2 officer of the sentencing guidelines commission. The office of
3 financial management shall determine the number of additional staff
4 needed to supplement the staff of the sentencing guidelines commission
5 in order to provide the juvenile disposition standards commission with
6 a research staff of sufficient size and with sufficient resources to
7 accomplish its duties.

8 (4) The commission may request from the office of financial
9 management, the administrator for the courts, and the department of
10 social and health services such data, information, and data processing
11 assistance as it may need to accomplish its duties, and such services
12 shall be provided without cost to the commission. The department of
13 social and health services and other organizations or individuals shall
14 provide the commission and the legislature with recommendations for
15 modification of the disposition standards.

16 (5) The commission shall conduct a study to determine the capacity
17 of rehabilitative facilities and programs that are or will be
18 available. While the commission need not consider such capacity in
19 arriving at its recommendations, the commission shall project whether
20 the implementation of its recommendations would result in exceeding
21 such capacity. If the commission finds that this result would probably
22 occur, then the commission shall prepare an additional list of standard
23 sentences that shall be consistent with such capacity.

24 (6) The commission shall study the existing juvenile justice code
25 and from time to time make recommendations to the legislature for
26 modification.

27 (7) The commission shall adopt its own bylaws.

28 NEW SECTION. Sec. 10. The legislature finds that:

29 Local jurisdictions have difficulty administering and enforcing the
30 laws related to juvenile offenders;

31 These difficulties include the local jurisdictions' abilities to
32 arrest, adjudicate, confine, administer, and supervise juvenile
33 offenders;

34 These difficulties have resulted in significant delays in the
35 administration of justice to juvenile offenders;

36 These difficulties may be due to a number of factors, including,
37 but not necessarily limited to, resource limitations within the various

1 units of government charged with the responsibility for administering
2 and enforcing laws related to juvenile offenders.

3 Therefore, effective July 1, 1994, a special legislative committee
4 is created to assess the ability and needs of local jurisdictions to
5 address adequately the administration of justice to juvenile offenders.
6 Specifically, this committee shall review the implementation and
7 administration of:

8 (1) Chapter 13.04 RCW, the basic juvenile court act;

9 (2) Chapter 13.06 RCW, consolidated juvenile services funding;

10 (3) Chapter 13.16 RCW, places of detention;

11 (4) Chapter 13.20 RCW, county detention facilities; and

12 (5) Chapter 13.40 RCW, the juvenile justice act of 1977.

13 The committee established under this section shall consist of the
14 members of the law and justice committee of the senate and the
15 corrections committee of the house of representatives. This committee
16 shall meet and conduct hearings as often as is necessary to carry out
17 its responsibilities under this section.

18 The special committee shall receive access to all relevant
19 information necessary to monitor the conduct of agencies or employees.
20 All confidential information received by the special committee under
21 this section shall be kept confidential by members of the committee and
22 shall not be further disseminated unless specifically authorized by
23 state or federal law.

24 The special committee shall report its findings and make
25 recommendations regarding the issues and chapters cited in this section
26 in a report submitted to the legislature before the 1996 regular
27 session of the legislature.

28 The special committee, unless recreated by the legislature, shall
29 cease to exist after submitting the report required under this section.

30 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and shall take
33 effect immediately.

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