

2 **2SHB 2219 - H AMD 103 ADOPTED 2-9-96**

3 By Representatives Thompson, Sheahan and Foreman

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5 On page 29, after line 8, insert the following:

6 "NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.64 RCW
7 to read as follows:

8 (1) A person commits the civil infraction of failing to supervise
9 a child if the person is the parent, lawful guardian, or other person
10 lawfully charged with the care or custody of a child under fifteen
11 years of age, fails to take reasonable steps to control the child's
12 conduct, and the child:

13 (a) Commits an offense as defined by RCW 13.40.020 that brings the
14 child within the jurisdiction of the juvenile court under chapter 13.40
15 RCW; or

16 (b) Violates a curfew law of a county or other political
17 subdivision.

18 "Fails to take reasonable steps to control the child's conduct"
19 means that (i) the child has engaged in conduct within the same zone of
20 behavior as the offense or curfew violation the child committed when
21 the person failed to supervise the child; (ii) the person knew that the
22 child had engaged in that conduct; (iii) the person had the opportunity
23 and knew of the necessity to control the child's conduct; and (iv) the
24 person's failure to exercise reasonable care, supervision, protection,
25 and control of the child was a gross departure from the conduct of a
26 reasonable parent.

27 (2) Nothing in this section applies to an agency, as defined under
28 RCW 74.15.020(3), that cares for children, expectant mothers, or the
29 developmentally disabled. Nothing in this section applies to foster
30 parents.

31 (3) A person may not be prosecuted for failing to supervise a child
32 under subsection (1)(a) of this section, if the person:

33 (a) Is the victim of the offense; or

34 (b) Reported the offense to the appropriate authorities.

1 (4) If a person is found to have committed the civil infraction of
2 failing to supervise a child and the person has not previously
3 committed the infraction of failing to supervise a child, the court:

4 (a) Must warn the person of the penalty for future infractions of
5 failing to supervise a child;

6 (b) Must order the person to pay restitution to the victim of any
7 offense committed by a child that resulted in a charge against the
8 person under this section. Restitution ordered under this subsection
9 may not exceed two thousand five hundred dollars; and

10 (c) May suspend imposition of the fine, place the person on
11 community supervision for a period up to one year, and order the person
12 to complete either a parent effectiveness program approved by the
13 court, or complete up to fifty community service hours, or both. Upon
14 the person's completion of the parent effectiveness program or
15 community service hours to the court's satisfaction, and payment of
16 restitution, the court may discharge the person. If the person fails
17 to complete the parent effectiveness program or the community service
18 hours to the court's satisfaction, or pay restitution, the court may
19 impose the fine authorized by this section.

20 (5) The court may not suspend a penalty under subsection (4)(c) of
21 this section if the person has previously been found to have committed
22 an infraction under this section.

23 (6) The juvenile court has jurisdiction over a person charged with
24 failing to supervise a child.

25 (7) Failing to supervise a child is punishable by a fine of not
26 more than one thousand dollars and supervision of up to one year but is
27 not punishable by imprisonment.

28 (8) If the person willfully fails or refuses to pay the fine, the
29 court may proceed against the person for contempt.

30 (9) Collection of restitution under this section shall not preclude
31 the victim from pursuing other remedies available at law.

32 (10) Restitution collected under this section must be credited
33 towards restitution the child is required to pay under a diversion
34 agreement, disposition, or deferred adjudication under chapter 13.40
35 RCW, unless the court does not order the child to make full restitution
36 to the victim because the child lacks the ability to pay full
37 restitution. In that case, only the amount paid under this section
38 that exceeds the full amount of restitution due may be credited against
39 the child's restitution obligation."

1 Renumber the remaining sections consecutively and correct the title
2 and any internal references accordingly.

3 On page 31, after line 38, insert the following:

4 "(5) A parent, lawful guardian, or other person lawfully charged
5 with the care and custody of a child under age fifteen is subject to
6 the jurisdiction of the juvenile court under section 8 of this act."

7 On page 58, line 30, after "pay" insert ". The diversion contract
8 must specify the full amount of restitution due even if the juvenile
9 does not have the means or potential to pay the full amount"

10 On page 75, after line 3, insert the following:

11 "**Sec. 28.** RCW 13.40.190 and 1995 c 33 s 5 are each amended to read
12 as follows:

13 (1) In its dispositional order, the court shall require the
14 respondent to make restitution to any persons who have suffered loss or
15 damage as a result of the offense committed by the respondent. In
16 addition, restitution may be ordered for loss or damage if the offender
17 pleads guilty to a lesser offense or fewer offenses and agrees with the
18 prosecutor's recommendation that the offender be required to pay
19 restitution to a victim of an offense or offenses (~~which, pursuant~~
20 ~~to~~) that, under a plea agreement, are not prosecuted. The payment of
21 restitution shall be in addition to any punishment (~~which~~) that is
22 imposed (~~pursuant to~~) under the other provisions of this chapter.
23 The court may determine the amount, terms, and conditions of the
24 restitution including a payment plan extending up to ten years if the
25 court determines that the respondent does not have the means to make
26 full restitution over a shorter period. Restitution may include the
27 costs of counseling reasonably related to the offense. If the
28 respondent participated in the crime with another person or other
29 persons, all (~~such~~) the participants (~~shall be~~) are jointly and
30 severally responsible for the payment of restitution. For the purposes
31 of this section, the respondent shall remain under the court's
32 jurisdiction for a maximum term of ten years after the respondent's
33 eighteenth birthday. The court may not require the respondent to pay
34 full or partial restitution if the respondent reasonably satisfies the
35 court that he or she does not have the means to make full or partial

1 restitution and could not reasonably acquire the means to pay ((such))
2 the restitution over a ten-year period. In cases where an offender has
3 been committed to the department for a period of confinement exceeding
4 fifteen weeks, restitution may be waived. In all cases, the court must
5 indicate the full amount of restitution due, and the amount, if any,
6 the respondent is required to pay.

7 (2) Regardless of the provisions of subsection (1) of this section,
8 the court shall order restitution in all cases where the victim is
9 entitled to benefits under the crime victims' compensation act, chapter
10 7.68 RCW. If the court does not order restitution and the victim of
11 the crime has been determined to be entitled to benefits under the
12 crime victims' compensation act, the department of labor and
13 industries, as administrator of the crime victims' compensation
14 program, may petition the court within one year of entry of the
15 disposition order for entry of a restitution order. Upon receipt of a
16 petition from the department of labor and industries, the court shall
17 hold a restitution hearing and shall enter a restitution order.

18 (3) If an order includes restitution as one of the monetary
19 assessments, the county clerk shall make disbursements to victims named
20 in the order. The restitution to victims named in the order shall be
21 paid prior to any payment for other penalties or monetary assessments.

22 (4) Restitution received under section 8 of this act must be
23 credited against the restitution the respondent is required to pay
24 under the disposition, unless the court did not order the respondent to
25 make full restitution. In that case, only the amount received under
26 section 8 of this act that exceeds the full amount of restitution due
27 should be credited against the respondent's restitution obligation.

28 (5) A respondent under obligation to pay restitution may petition
29 the court for modification of the restitution order."

30 Renumber the remaining sections consecutively and correct the title
31 and any internal references accordingly.

32 On page 86, lines 13 and 14, include sections 8 and 28 of this
33 amendment

34 On page 86, line 14, after "offenses" insert ", and curfew
35 violations committed by juveniles,"

1 On page 86, line 18, include sections 8 and 28 of this amendment

2 EFFECT: A parent commits the civil infraction of failing to
3 supervise a child if the parent of a child under age 15 fails to take
4 reasonable steps to control the child's conduct and the child commits
5 an offense or violates a curfew law. The test for "fails to take
6 reasonable steps to control a child's conduct" is the test under
7 current tort law for imposing financial liability on a parent for their
8 child's damages to persons or property. Penalties include a fine up to
9 \$1,000, parenting classes, supervision, and payment of restitution due
10 to a victim of the child's offense in an amount not to exceed \$2,500.

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