
SENATE BILL 6008

State of Washington

56th Legislature

1999 Regular Session

By Senators Costa, Hargrove and Long

Read first time 02/22/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to authorizing the participation of youth as
2 decision makers in dispositions of minor offenses and rules violations;
3 amending RCW 13.40.020, 13.40.250, and 46.63.040; adding new sections
4 to chapter 13.40 RCW; and adding new sections to chapter 28A.150 RCW.

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

6 **Sec. 1.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to read
7 as follows:

8 For the purposes of this chapter:

9 (1) "Community-based rehabilitation" means one or more of the
10 following: Employment; attendance of information classes; literacy
11 classes; counseling, outpatient substance abuse treatment programs,
12 outpatient mental health programs, anger management classes, education
13 or outpatient treatment programs to prevent animal cruelty, or other
14 services; or attendance at school or other educational programs
15 appropriate for the juvenile as determined by the school district.
16 Placement in community-based rehabilitation programs is subject to
17 available funds;

18 (2) Community-based sanctions may include one or more of the
19 following:

1 (a) A fine, not to exceed five hundred dollars;

2 (b) Community service not to exceed one hundred fifty hours of
3 service;

4 (3) "Community service" means compulsory service, without
5 compensation, performed for the benefit of the community by the
6 offender as punishment for committing an offense. Community service
7 may be performed through public or private organizations or through
8 work crews;

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

22 (a) Community-based sanctions;

23 (b) Community-based rehabilitation;

24 (c) Monitoring and reporting requirements;

25 (d) Posting of a probation bond;

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

36 (6) "Court," when used without further qualification, means the
37 juvenile court judge(s) or commissioner(s);

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

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

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

12 (8) "Department" means the department of social and health
13 services;

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

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

1 (11) "Foster care" means temporary physical care in a foster family
2 home or group care facility as defined in RCW 74.15.020 and licensed by
3 the department, or other legally authorized care;

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

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

11 (14) "Juvenile," "youth," and "child" mean any individual who is
12 under the chronological age of eighteen years and who has not been
13 previously transferred to adult court pursuant to RCW 13.40.110 or who
14 is otherwise under adult court jurisdiction;

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

19 (16) "Local sanctions" means one or more of the following: (a)
20 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
21 0-150 hours of community service; or (d) \$0-\$500 fine;

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

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

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

37 (20) "Probation bond" means a bond, posted with sufficient security
38 by a surety justified and approved by the court, to secure the
39 offender's appearance at required court proceedings and compliance with

1 court-ordered community supervision or conditions of release ordered
2 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
3 cash or posting of other collateral in lieu of a bond if approved by
4 the court;

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

7 (22) "Restitution" means financial reimbursement by the offender to
8 the victim, and shall be limited to easily ascertainable damages for
9 injury to or loss of property, actual expenses incurred for medical
10 treatment for physical injury to persons, lost wages resulting from
11 physical injury, and costs of the victim's counseling reasonably
12 related to the offense if the offense is a sex offense. Restitution
13 shall not include reimbursement for damages for mental anguish, pain
14 and suffering, or other intangible losses. Nothing in this chapter
15 shall limit or replace civil remedies or defenses available to the
16 victim or offender;

17 (23) "Secretary" means the secretary of the department of social
18 and health services. "Assistant secretary" means the assistant
19 secretary for juvenile rehabilitation for the department;

20 (24) "Services" means services which provide alternatives to
21 incarceration for those juveniles who have pleaded or been adjudicated
22 guilty of an offense or have signed a diversion agreement pursuant to
23 this chapter;

24 (25) "Sex offense" means an offense defined as a sex offense in RCW
25 9.94A.030;

26 (26) "Sexual motivation" means that one of the purposes for which
27 the respondent committed the offense was for the purpose of his or her
28 sexual gratification;

29 (27) "Surety" means an entity licensed under state insurance laws
30 or by the state department of licensing, to write corporate, property,
31 or probation bonds within the state, and justified and approved by the
32 superior court of the county having jurisdiction of the case;

33 (28) "Violation" means an act or omission, which if committed by an
34 adult, must be proven beyond a reasonable doubt, and is punishable by
35 sanctions which do not include incarceration;

36 (29) "Violent offense" means a violent offense as defined in RCW
37 9.94A.030.

38 (30) "Youth court" means a program under the supervision of the
39 juvenile court.

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

3 Youth courts provide a diversion for cases involving juvenile
4 offenders, in which participants, under the supervision of an adult
5 coordinator, may serve in various capacities within the program, acting
6 in the role of jurors, lawyers, bailiffs, clerks, and judges. Youths
7 who appear before youth courts are youths eligible for diversion
8 pursuant to RCW 13.40.070 (6) and (7). Youth courts have no
9 jurisdiction except as provided for in this act. Youth courts are
10 diversion units and not courts established under Article IV of the
11 state Constitution.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.40 RCW
13 to read as follows:

14 (1) The office of the administrator for the courts shall encourage
15 the juvenile courts to work with cities and counties to implement,
16 expand, or use youth court programs for juveniles who commit diversion-
17 eligible offenses or civil traffic infractions. Program operations of
18 youth court programs may be funded by government and private grants.
19 Youth court programs are limited to those that:

20 (a) Are developed using the guidelines for creating and operating
21 teen court programs developed by the American probation and parole
22 association teen courts project;

23 (b) Target offenders age eight through seventeen; and

24 (c) Emphasize the following principles:

25 (i) Youth must be held accountable for their problem behavior;

26 (ii) Youth must be educated about the impact their actions have on
27 themselves and others including their victims, their families, and
28 their community;

29 (iii) Youth must develop skills to resolve problems with their
30 peers more effectively; and

31 (iv) Youth should be provided a meaningful forum to practice and
32 enhance newly developed skills.

33 (2) Youth court programs may be established by law enforcement
34 entities, municipal courts, district courts, juvenile courts, juvenile
35 probation departments, private nonprofit organizations, and schools.

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

1 (1) Youth courts have authority over juveniles ages eight through
2 seventeen who:

3 (a) Along with their parent, guardian, or legal custodian,
4 voluntarily and in writing request youth court involvement;

5 (b) Admit they have committed the offense they are referred for;

6 (c) Along with their parent, guardian, or legal custodian, waive
7 any privilege against self-incrimination; and

8 (d) Along with their parent, guardian, or legal custodian, agree to
9 comply with the youth court disposition of the case.

10 (2) Youth courts shall not exercise authority over youth who are
11 under the continuing jurisdiction of the juvenile court for law
12 violations, including a youth with a matter pending before the juvenile
13 court but which has not yet been adjudicated.

14 (3) Youth courts may decline to accept a youth for youth court
15 disposition for any reason and may terminate a youth from youth court
16 participation at any time.

17 (4) A youth or his or her parent, guardian, or legal custodian may
18 withdraw from the youth court process at any time. Upon withdrawal,
19 the youth court shall transfer the case back to the juvenile court.

20 (5) Youth courts shall give any victims of a juvenile the
21 opportunity to be notified, present, and heard in any youth court
22 proceeding.

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

25 Youth court may not notify the juvenile court of satisfaction of
26 conditions until all ordered restitution has been paid.

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

29 Every youth appearing before a youth court shall be accompanied by
30 his or her parent, guardian, or legal custodian.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.40 RCW
32 to read as follows:

33 (1) Youth court dispositional options include those delineated in
34 RCW 13.40.080, and may also include:

35 (a) Community restitution;

1 (b) Participating in law-related education classes, appropriate
2 counseling, treatment, or other education programs;

3 (c) Providing periodic reports to the youth court;

4 (d) Participating in mentoring programs;

5 (e) Serving as a participant in future youth court proceedings;

6 (f) Writing apology letters; or

7 (g) Writing essays.

8 (2) Youth courts shall not impose a term of confinement or
9 detention. Youth courts may require that the youth pay reasonable fees
10 to participate in youth court and in classes, counseling, treatment, or
11 other educational programs that are the disposition of the youth court.

12 (3) Youth court dispositions shall be completed within one hundred
13 eighty days from the date of referral.

14 (4) Youth court dispositions shall be reduced to writing and signed
15 by the youth and his or her parent, guardian, or legal custodian
16 accepting the disposition terms.

17 (5) Youth court shall notify the juvenile court upon successful or
18 unsuccessful completion of the disposition.

19 (6) Youth court shall notify the prosecutor or probation counselor
20 of a failure to successfully complete the youth court disposition. The
21 prosecutor or probation counselor shall make a referral to the juvenile
22 court.

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.40 RCW
24 to read as follows:

25 A youth court may require that a youth pay a nonrefundable fee, not
26 exceeding thirty dollars, to cover the costs of administering the
27 program. The fee may be reduced or waived for a participant. Fees
28 shall be paid to and accounted for by the youth court.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.150
30 RCW to read as follows:

31 The office of the superintendent of public instruction shall
32 encourage school districts to implement, expand, or use student court
33 programs for students who commit violations of school rules and
34 policies. Program operations of student courts may be funded by
35 government and private grants. Student court programs are limited to
36 those that:

1 (1) Are developed using the guidelines for creating and operating
2 teen court programs developed by the American probation and parole
3 association teen courts project;

4 (2) Target violators of school rules age eight through seventeen;
5 and

6 (3) Emphasize the following principles:

7 (a) Youth must be held accountable for their problem behavior;

8 (b) Youth must be educated about the impact their actions have on
9 themselves and others including the school, school personnel, their
10 classmates, their families, and their community;

11 (c) Youth must develop skills to resolve problems with their peers
12 more effectively; and

13 (d) Youth should be provided a meaningful forum to practice and
14 enhance newly developed skills.

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.150
16 RCW to read as follows:

17 Local school boards may provide for school credit for participation
18 as a member of a youth court as defined in RCW 13.40.020 or a student
19 court pursuant to section 9 of this act.

20 **Sec. 11.** RCW 13.40.250 and 1997 c 338 s 36 are each amended to
21 read as follows:

22 A traffic or civil infraction case involving a juvenile under the
23 age of sixteen may be diverted in accordance with the provisions of
24 this chapter ~~((or))~~, filed in juvenile court, or referred to a youth
25 court as defined in RCW 13.40.020.

26 (1) If a notice of a traffic or civil infraction is filed in
27 juvenile court or in a youth court, the juvenile named in the notice
28 shall be afforded the same due process afforded to adult defendants in
29 traffic infraction cases.

30 (2) A monetary penalty imposed upon a juvenile under the age of
31 sixteen who is found to have committed a traffic or civil infraction
32 may not exceed one hundred dollars. At the juvenile's request, the
33 court may order performance of a number of hours of community service
34 in lieu of a monetary penalty, at the rate of the prevailing state
35 minimum wage per hour.

1 (3) A diversion agreement entered into by a juvenile referred
2 pursuant to this section shall be limited to thirty hours of community
3 service, or educational or informational sessions.

4 (4) Traffic or civil infractions referred to a youth court pursuant
5 to this section are subject to the conditions imposed by section 7 of
6 this act.

7 (5) If a case involving the commission of a traffic or civil
8 infraction or offense by a juvenile under the age of sixteen has been
9 referred to a diversion unit or to a youth court, an abstract of the
10 action taken by the diversion unit may be forwarded to the department
11 of licensing in the manner provided for in RCW 46.20.270(2).

12 **Sec. 12.** RCW 46.63.040 and 1984 c 258 s 137 are each amended to
13 read as follows:

14 (1) All violations of state law, local law, ordinance, regulation,
15 or resolution designated as traffic infractions in RCW 46.63.020 may be
16 heard and determined by a district court, except as otherwise provided
17 in this section.

18 (2) Any municipal court has the authority to hear and determine
19 traffic infractions pursuant to this chapter.

20 (3) Any city or town with a municipal court may contract with the
21 county to have traffic infractions committed within the city or town
22 adjudicated by a district court.

23 (4) District court commissioners have the authority to hear and
24 determine traffic infractions pursuant to this chapter.

25 (5) The boards of regents of the state universities, and the boards
26 of trustees of the regional universities and of The Evergreen State
27 College have the authority to hear and determine traffic infractions
28 under RCW 28B.10.560.

29 (6) Any district or municipal court may refer juveniles age sixteen
30 or seventeen to a youth court, as defined in RCW 13.40.020, for traffic
31 infractions.

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