
SENATE BILL 6105

State of Washington

58th Legislature

2004 Regular Session

By Senator McCaslin

Read first time 01/12/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to juvenile penalties for animal cruelty; amending
2 RCW 13.40.110 and 13.40.127; reenacting and amending RCW 13.40.160;
3 prescribing penalties; and providing an effective date.

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

5 **Sec. 1.** RCW 13.40.110 and 1997 c 338 s 20 are each amended to read
6 as follows:

7 (1) The prosecutor, respondent, or the court on its own motion may,
8 before a hearing on the information on its merits, file a motion
9 requesting the court to transfer the respondent for adult criminal
10 prosecution and the matter shall be set for a hearing on the question
11 of declining jurisdiction. Unless waived by the court, the parties,
12 and their counsel, a decline hearing shall be held when:

13 (a) The respondent is fifteen, sixteen, or seventeen years of age
14 and the information alleges a class A felony or an attempt,
15 solicitation, or conspiracy to commit a class A felony;

16 (b) The respondent is seventeen years of age and the information
17 alleges assault in the second degree, extortion in the first degree,
18 indecent liberties, child molestation in the second degree, kidnapping
19 in the second degree, or robbery in the second degree; ((or))

1 (c) The information alleges an escape by the respondent and the
2 respondent is serving a minimum juvenile sentence to age twenty-one; or
3 (d) The information alleges animal cruelty in the first degree.

4 (2) The court after a decline hearing may order the case
5 transferred for adult criminal prosecution upon a finding that the
6 declination would be in the best interest of the juvenile or the
7 public. The court shall consider the relevant reports, facts,
8 opinions, and arguments presented by the parties and their counsel.

9 (3) When the respondent is transferred for criminal prosecution or
10 retained for prosecution in juvenile court, the court shall set forth
11 in writing its finding which shall be supported by relevant facts and
12 opinions produced at the hearing.

13 **Sec. 2.** RCW 13.40.127 and 2001 c 175 s 3 are each amended to read
14 as follows:

15 (1) A juvenile is eligible for deferred disposition unless he or
16 she:

17 (a) Is charged with a sex or violent offense;

18 (b) Is charged with animal cruelty in the first degree;

19 (c) Has a criminal history which includes any felony;

20 ~~((+e))~~ (d) Has a prior deferred disposition or deferred
21 adjudication; or

22 ~~((+d))~~ (e) Has two or more adjudications.

23 (2) The juvenile court may, upon motion at least fourteen days
24 before commencement of trial and, after consulting the juvenile's
25 custodial parent or parents or guardian and with the consent of the
26 juvenile, continue the case for disposition for a period not to exceed
27 one year from the date the juvenile is found guilty. The court shall
28 consider whether the offender and the community will benefit from a
29 deferred disposition before deferring the disposition.

30 (3) Any juvenile who agrees to a deferral of disposition shall:

31 (a) Stipulate to the admissibility of the facts contained in the
32 written police report;

33 (b) Acknowledge that the report will be entered and used to support
34 a finding of guilt and to impose a disposition if the juvenile fails to
35 comply with terms of supervision; and

36 (c) Waive the following rights to: (i) A speedy disposition; and
37 (ii) call and confront witnesses.

1 The adjudicatory hearing shall be limited to a reading of the
2 court's record.

3 (4) Following the stipulation, acknowledgment, waiver, and entry of
4 a finding or plea of guilt, the court shall defer entry of an order of
5 disposition of the juvenile.

6 (5) Any juvenile granted a deferral of disposition under this
7 section shall be placed under community supervision. The court may
8 impose any conditions of supervision that it deems appropriate
9 including posting a probation bond. Payment of restitution under RCW
10 13.40.190 shall be a condition of community supervision under this
11 section.

12 (6) A parent who signed for a probation bond has the right to
13 notify the counselor if the juvenile fails to comply with the bond or
14 conditions of supervision. The counselor shall notify the court and
15 surety of any failure to comply. A surety shall notify the court of
16 the juvenile's failure to comply with the probation bond. The state
17 shall bear the burden to prove, by a preponderance of the evidence,
18 that the juvenile has failed to comply with the terms of community
19 supervision.

20 (7) A juvenile's lack of compliance shall be determined by the
21 judge upon written motion by the prosecutor or the juvenile's juvenile
22 court community supervision counselor. If a juvenile fails to comply
23 with terms of supervision, the court shall enter an order of
24 disposition.

25 (8) At any time following deferral of disposition the court may,
26 following a hearing, continue the case for an additional one-year
27 period for good cause.

28 (9) At the conclusion of the period set forth in the order of
29 deferral and upon a finding by the court of full compliance with
30 conditions of supervision and payment of full restitution, the
31 respondent's conviction shall be vacated and the court shall dismiss
32 the case with prejudice.

33 **Sec. 3.** RCW 13.40.160 and 2003 c 378 s 3 and 2003 c 53 s 99 are
34 each reenacted and amended to read as follows:

35 (1) The standard range disposition for a juvenile adjudicated of an
36 offense is determined according to RCW 13.40.0357.

1 (a) When the court sentences an offender to a local sanction as
2 provided in RCW 13.40.0357 option A, the court shall impose a
3 determinate disposition within the standard ranges, except as provided
4 in subsection (2), (3), (~~(4)~~) (5), (~~(5)~~) (6), or (~~(6)~~) (7) of
5 this section. The disposition may be comprised of one or more local
6 sanctions.

7 (b) When the court sentences an offender to a standard range as
8 provided in RCW 13.40.0357 option A that includes a term of confinement
9 exceeding thirty days, commitment shall be to the department for the
10 standard range of confinement, except as provided in subsection (2),
11 (3), (~~(4)~~) (5), (~~(5)~~) (6), or (~~(6)~~) (7) of this section.

12 (2) If the court concludes, and enters reasons for its conclusion,
13 that disposition within the standard range would effectuate a manifest
14 injustice the court shall impose a disposition outside the standard
15 range, as indicated in option D of RCW 13.40.0357. The court's finding
16 of manifest injustice shall be supported by clear and convincing
17 evidence.

18 A disposition outside the standard range shall be determinate and
19 shall be comprised of confinement or community supervision, or a
20 combination thereof. When a judge finds a manifest injustice and
21 imposes a sentence of confinement exceeding thirty days, the court
22 shall sentence the juvenile to a maximum term, and the provisions of
23 RCW 13.40.030(2) shall be used to determine the range. A disposition
24 outside the standard range is appealable under RCW 13.40.230 by the
25 state or the respondent. A disposition within the standard range is
26 not appealable under RCW 13.40.230.

27 (3) When a juvenile offender is found to have committed a sex
28 offense, other than a sex offense that is also a serious violent
29 offense as defined by RCW 9.94A.030, and has no history of a prior sex
30 offense, the court, on its own motion or the motion of the state or the
31 respondent, may order an examination to determine whether the
32 respondent is amenable to treatment.

33 The report of the examination shall include at a minimum the
34 following: The respondent's version of the facts and the official
35 version of the facts, the respondent's offense history, an assessment
36 of problems in addition to alleged deviant behaviors, the respondent's
37 social, educational, and employment situation, and other evaluation

1 measures used. The report shall set forth the sources of the
2 evaluator's information.

3 The examiner shall assess and report regarding the respondent's
4 amenability to treatment and relative risk to the community. A
5 proposed treatment plan shall be provided and shall include, at a
6 minimum:

7 (a)(i) Frequency and type of contact between the offender and
8 therapist;

9 (ii) Specific issues to be addressed in the treatment and
10 description of planned treatment modalities;

11 (iii) Monitoring plans, including any requirements regarding living
12 conditions, lifestyle requirements, and monitoring by family members,
13 legal guardians, or others;

14 (iv) Anticipated length of treatment; and

15 (v) Recommended crime-related prohibitions.

16 The court on its own motion may order, or on a motion by the state
17 shall order, a second examination regarding the offender's amenability
18 to treatment. The evaluator shall be selected by the party making the
19 motion. The defendant shall pay the cost of any second examination
20 ordered unless the court finds the defendant to be indigent in which
21 case the state shall pay the cost.

22 After receipt of reports of the examination, the court shall then
23 consider whether the offender and the community will benefit from use
24 of this special sex offender disposition alternative and consider the
25 victim's opinion whether the offender should receive a treatment
26 disposition under this section. If the court determines that this
27 special sex offender disposition alternative is appropriate, then the
28 court shall impose a determinate disposition within the standard range
29 for the offense, or if the court concludes, and enters reasons for its
30 conclusions, that such disposition would cause a manifest injustice,
31 the court shall impose a disposition under option D, and the court may
32 suspend the execution of the disposition and place the offender on
33 community supervision for at least two years. As a condition of the
34 suspended disposition, the court may impose the conditions of community
35 supervision and other conditions, including up to thirty days of
36 confinement and requirements that the offender do any one or more of
37 the following:

1 (b)(i) Devote time to a specific education, employment, or
2 occupation;

3 (ii) Undergo available outpatient sex offender treatment for up to
4 two years, or inpatient sex offender treatment not to exceed the
5 standard range of confinement for that offense. A community mental
6 health center may not be used for such treatment unless it has an
7 appropriate program designed for sex offender treatment. The
8 respondent shall not change sex offender treatment providers or
9 treatment conditions without first notifying the prosecutor, the
10 probation counselor, and the court, and shall not change providers
11 without court approval after a hearing if the prosecutor or probation
12 counselor object to the change;

13 (iii) Remain within prescribed geographical boundaries and notify
14 the court or the probation counselor prior to any change in the
15 offender's address, educational program, or employment;

16 (iv) Report to the prosecutor and the probation counselor prior to
17 any change in a sex offender treatment provider. This change shall
18 have prior approval by the court;

19 (v) Report as directed to the court and a probation counselor;

20 (vi) Pay all court-ordered legal financial obligations, perform
21 community restitution, or any combination thereof;

22 (vii) Make restitution to the victim for the cost of any counseling
23 reasonably related to the offense;

24 (viii) Comply with the conditions of any court-ordered probation
25 bond; or

26 (ix) The court shall order that the offender may not attend the
27 public or approved private elementary, middle, or high school attended
28 by the victim or the victim's siblings. The parents or legal guardians
29 of the offender are responsible for transportation or other costs
30 associated with the offender's change of school that would otherwise be
31 paid by the school district. The court shall send notice of the
32 disposition and restriction on attending the same school as the victim
33 or victim's siblings to the public or approved private school the
34 juvenile will attend, if known, or if unknown, to the approved private
35 schools and the public school district board of directors of the
36 district in which the juvenile resides or intends to reside. This
37 notice must be sent at the earliest possible date but not later than
38 ten calendar days after entry of the disposition.

1 The sex offender treatment provider shall submit quarterly reports
2 on the respondent's progress in treatment to the court and the parties.
3 The reports shall reference the treatment plan and include at a minimum
4 the following: Dates of attendance, respondent's compliance with
5 requirements, treatment activities, the respondent's relative progress
6 in treatment, and any other material specified by the court at the time
7 of the disposition.

8 At the time of the disposition, the court may set treatment review
9 hearings as the court considers appropriate.

10 Except as provided in this subsection (3), after July 1, 1991,
11 examinations and treatment ordered pursuant to this subsection shall
12 only be conducted by sex offender treatment providers certified by the
13 department of health pursuant to chapter 18.155 RCW. A sex offender
14 therapist who examines or treats a juvenile sex offender pursuant to
15 this subsection does not have to be certified by the department of
16 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
17 offender has already moved to another state or plans to move to another
18 state for reasons other than circumventing the certification
19 requirements; (B) no certified providers are available for treatment
20 within a reasonable geographical distance of the offender's home; and
21 (C) the evaluation and treatment plan comply with this subsection (3)
22 and the rules adopted by the department of health.

23 If the offender violates any condition of the disposition or the
24 court finds that the respondent is failing to make satisfactory
25 progress in treatment, the court may revoke the suspension and order
26 execution of the disposition or the court may impose a penalty of up to
27 thirty days' confinement for violating conditions of the disposition.
28 The court may order both execution of the disposition and up to thirty
29 days' confinement for the violation of the conditions of the
30 disposition. The court shall give credit for any confinement time
31 previously served if that confinement was for the offense for which the
32 suspension is being revoked.

33 For purposes of this section, "victim" means any person who has
34 sustained emotional, psychological, physical, or financial injury to
35 person or property as a direct result of the crime charged. "Victim"
36 may also include a known parent or guardian of a victim who is a minor
37 child unless the parent or guardian is the perpetrator of the offense.

1 A disposition entered under this subsection (3) is not appealable
2 under RCW 13.40.230.

3 (4)(a) When a juvenile offender is found to have committed animal
4 cruelty in the first degree, the court, on its own motion or the motion
5 of the state or the respondent, may order an examination to determine
6 whether it is appropriate to require the respondent to attend treatment
7 in a program to prevent animal cruelty. The examiner shall assess and
8 report regarding the respondent's amenability to treatment and relative
9 risk to the community and shall submit a proposed treatment plan if
10 that is indicated.

11 (b) A proposed treatment plan shall include, at a minimum:

12 (i) Frequency and type of contact between the offender and
13 therapist;

14 (ii) Specific issues to be addressed in the treatment;

15 (iii) Anticipated length of treatment; and

16 (iv) Recommended crime-related prohibitions.

17 (c) After receipt of report of the examination and treatment plan,
18 the court shall then consider whether the offender and the community
19 will benefit from the respondent's treatment and, if so, the court
20 shall impose a determinate disposition that includes one year of
21 community supervision during which the treatment shall be required.

22 (5) If the juvenile offender is subject to a standard range
23 disposition of local sanctions or 15 to 36 weeks of confinement and has
24 not committed an A- or B+ offense, the court may impose the
25 disposition alternative under RCW 13.40.165.

26 ~~((+5))~~ (6) If a juvenile is subject to a commitment of 15 to 65
27 weeks of confinement, the court may impose the disposition alternative
28 under RCW 13.40.167.

29 ~~((+6))~~ (7) When the offender is subject to a standard range
30 commitment of 15 to 36 weeks and is ineligible for a suspended
31 disposition alternative, a manifest injustice disposition below the
32 standard range, special sex offender disposition alternative, chemical
33 dependency disposition alternative, or mental health disposition
34 alternative, the court in a county with a pilot program under RCW
35 13.40.169 may impose the disposition alternative under RCW 13.40.169.

36 ~~((+7))~~ (8) RCW 13.40.193 shall govern the disposition of any
37 juvenile adjudicated of possessing a firearm in violation of RCW

1 9.41.040(2)(a)(iii) or any crime in which a special finding is entered
2 that the juvenile was armed with a firearm.

3 ~~((+8+))~~ (9) Whenever a juvenile offender is entitled to credit for
4 time spent in detention prior to a dispositional order, the
5 dispositional order shall specifically state the number of days of
6 credit for time served.

7 ~~((+9+))~~ (10) Except as provided under subsection (3), ~~((+4+))~~ (5),
8 ~~((+5+))~~ (6), or ~~((+6+))~~ (7) of this section, or option B of RCW
9 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the
10 imposition or the execution of the disposition.

11 ~~((+10+))~~ (11) In no case shall the term of confinement imposed by
12 the court at disposition exceed that to which an adult could be
13 subjected for the same offense.

14 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2004.

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