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SENATE BILL 5502

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State of Washington

59th Legislature

2005 Regular Session

By Senators Hargrove, Stevens, Delvin and Regala

Read first time 01/26/2005. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to juvenile sentencing alternatives; and amending  
2 RCW 13.40.167.

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

4 **Sec. 1.** RCW 13.40.167 and 2003 c 378 s 4 are each amended to read  
5 as follows:

6 (1) When an offender is subject to a standard range (~~commitment of~~  
7 ~~15 to 65 weeks~~) disposition involving confinement by the department,  
8 the court may:

9 (a) Impose the standard range; or

10 (b) Suspend the standard range disposition on condition that the  
11 offender complies with the terms of this mental health disposition  
12 alternative.

13 (2) The court may impose this disposition alternative when the  
14 court finds the following:

15 (a) The offender has a current diagnosis, consistent with the  
16 American psychiatry association diagnostic and statistical manual of  
17 mental disorders, of axis I psychiatric disorder, excluding youth that  
18 are diagnosed as solely having a conduct disorder, oppositional defiant  
19 disorder, substance abuse disorder, paraphilia, or pedophilia;

1 (b) An appropriate treatment option is available in the local  
2 community;

3 (c) The plan for the offender identifies and addresses requirements  
4 for successful participation and completion of the treatment  
5 intervention program including: Incentives and graduated sanctions  
6 designed specifically for amenable youth, including the use of  
7 detention, detoxication, and in-patient or outpatient substance abuse  
8 treatment and psychiatric hospitalization, and structured community  
9 support consisting of mental health providers, probation, educational  
10 and vocational advocates, child welfare services, and family and  
11 community support. For any mental health treatment ordered for an  
12 offender under this section, the treatment option selected shall be  
13 chosen from among programs which have been successful in addressing  
14 mental health needs of juveniles and successful in mental health  
15 treatment of juveniles and identified as research-based best practice  
16 programs. A list of programs which meet these criteria shall be agreed  
17 upon by: The Washington association of juvenile court administrators,  
18 the juvenile rehabilitation administration of the department of social  
19 and health services, a representative of the division of public  
20 behavioral health and justice policy at the University of Washington,  
21 and the Washington institute for public policy. The list of programs  
22 shall be created not later than July 1, 2003. The group shall provide  
23 the list to all superior courts, its own membership, the legislature,  
24 and the governor. The group shall meet annually and revise the list as  
25 appropriate; and

26 (d) The offender, offender's family, and community will benefit  
27 from use of the mental health disposition alternative.

28 (3) The court on its own motion may order, or on motion by either  
29 party, shall order a comprehensive mental health evaluation to  
30 determine if the offender has a designated mental disorder. The court  
31 may also order a chemical dependency evaluation to determine if the  
32 offender also has a co-occurring chemical dependency disorder. The  
33 evaluation shall include at a minimum the following: The offender's  
34 version of the facts and the official version of the facts, the  
35 offender's offense, an assessment of the offender's mental health and  
36 drug-alcohol problems and previous treatment attempts, and the  
37 offender's social, criminal, educational, and employment history and  
38 living situation.

1 (4) The evaluator shall determine if the offender is amenable to  
2 research-based treatment. A proposed case management and treatment  
3 plan shall include at a minimum:

4 (a) The availability of treatment;

5 (b) Anticipated length of treatment;

6 (c) Whether one or more treatment interventions are proposed and  
7 the anticipated sequence of those treatment interventions;

8 (d) The education plan;

9 (e) The residential plan; and

10 (f) The monitoring plan.

11 (5) The court on its own motion may order, or on motion by either  
12 party, shall order a second mental health or chemical dependency  
13 evaluation. The party making the motion shall select the evaluator.  
14 The requesting party shall pay the cost of any examination ordered  
15 under this subsection and subsection (3) of this section unless the  
16 court finds the offender is indigent and no third party insurance  
17 coverage is available, in which case the state shall pay the cost.

18 (6) Upon receipt of the assessments, evaluations, and reports the  
19 court shall consider whether the offender and the community will  
20 benefit from use of the mental health disposition alternative. The  
21 court shall consider the victim's opinion whether the offender should  
22 receive the option.

23 (7) If the court determines that the mental health disposition  
24 alternative is appropriate, the court shall impose a standard range  
25 disposition (~~(of not more than 65 weeks)~~), suspend execution of the  
26 disposition, and place the offender on community supervision up to one  
27 year and impose one or more other local sanctions. Confinement in a  
28 secure county detention facility, other than county group homes,  
29 inpatient psychiatric treatment facilities, and substance abuse  
30 programs, shall be limited to thirty days. As a condition of a  
31 suspended disposition, the court shall require the offender to  
32 participate in the recommended treatment interventions.

33 (8) The treatment providers shall submit monthly reports to the  
34 court and parties on the offender's progress in treatment. The report  
35 shall reference the treatment plan and include at a minimum the  
36 following: Dates of attendance, offender's compliance with  
37 requirements, treatment activities, medication management, the

1 offender's relative progress in treatment, and any other material  
2 specified by the court at the time of the disposition.

3 (9) If the offender fails to comply with the suspended disposition,  
4 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke  
5 the suspended disposition and order the disposition's execution.

6 (10) An offender is ineligible for the mental health disposition  
7 option under this section if the offender is:

8 (a) Adjudicated of an A+ offense;

9 (b) Fourteen years of age or older and is adjudicated of one or  
10 more of the following offenses:

11 (i) A class A offense, or an attempt, conspiracy, or solicitation  
12 to commit a class A offense;

13 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

14 (iii) Any of the following offenses, when the offense includes  
15 infliction of bodily harm upon another or when during the commission or  
16 immediate withdrawal from the offense the respondent was armed with a  
17 deadly weapon: Assault in the second degree (RCW 9A.36.021), extortion  
18 in the first degree (RCW 9A.56.120), kidnapping in the second degree  
19 (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210),  
20 residential burglary (RCW 9A.52.025), burglary in the second degree  
21 (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide  
22 (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating  
23 a witness (RCW 9A.72.110), violation of the uniform controlled  
24 substances act (RCW 69.50.401(2) (a) and (b)), or manslaughter 2 (RCW  
25 9A.32.070);

26 (c) Ordered to serve a disposition for a firearm violation under  
27 RCW 13.40.193; or

28 (d) Adjudicated of a sex ((~~or violent~~)) offense as defined in RCW  
29 9.94A.030.

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