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**SUBSTITUTE SENATE BILL 5974**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove)

READ FIRST TIME 02/26/07.

1            AN ACT Relating to the chemical dependency disposition alternative;  
2 amending RCW 13.40.165; and adding a new section to chapter 13.40 RCW.

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

4            **Sec. 1.** RCW 13.40.165 and 2004 c 120 s 5 are each amended to read  
5 as follows:

6            (1) The purpose of this disposition alternative is to ensure that  
7 successful treatment options to reduce recidivism are available to  
8 eligible youth, pursuant to RCW 70.96A.520. The court must consider  
9 eligibility for the chemical dependency disposition alternative when a  
10 juvenile offender is subject to a standard range disposition of local  
11 sanctions or 15 to 36 weeks of confinement and has not committed an A-  
12 or B+ offense, other than a first time B+ offense under chapter 69.50  
13 RCW. The court, on its own motion or the motion of the state or the  
14 respondent if the evidence shows that the offender may be chemically  
15 dependent or substance abusing, may order an examination by a chemical  
16 dependency counselor from a chemical dependency treatment facility  
17 approved under chapter 70.96A RCW to determine if the youth is  
18 chemically dependent or substance abusing. The offender shall pay the

1 cost of any examination ordered under this subsection unless the court  
2 finds that the offender is indigent and no third party insurance  
3 coverage is available, in which case the state shall pay the cost.

4 (2) The report of the examination shall include at a minimum the  
5 following: The respondent's version of the facts and the official  
6 version of the facts, the respondent's offense history, an assessment  
7 of drug-alcohol problems and previous treatment attempts, the  
8 respondent's social, educational, and employment situation, and other  
9 evaluation measures used. The report shall set forth the sources of  
10 the examiner's information.

11 (3) The examiner shall assess and report regarding the respondent's  
12 relative risk to the community. A proposed treatment plan shall be  
13 provided and shall include, at a minimum:

14 (a) Whether inpatient and/or outpatient treatment is recommended;

15 (b) Availability of appropriate treatment;

16 (c) Monitoring plans, including any requirements regarding living  
17 conditions, lifestyle requirements, and monitoring by family members,  
18 legal guardians, or others;

19 (d) Anticipated length of treatment; and

20 (e) Recommended crime-related prohibitions.

21 (4) The court on its own motion may order, or on a motion by the  
22 state or the respondent shall order, a second examination. The  
23 evaluator shall be selected by the party making the motion. The  
24 requesting party shall pay the cost of any examination ordered under  
25 this subsection unless the requesting party is the offender and the  
26 court finds that the offender is indigent and no third party insurance  
27 coverage is available, in which case the state shall pay the cost.

28 (5)(a) After receipt of reports of the examination, the court shall  
29 then consider whether the offender and the community will benefit from  
30 use of this chemical dependency disposition alternative and consider  
31 the victim's opinion whether the offender should receive a treatment  
32 disposition under this section.

33 (b) If the court determines that this chemical dependency  
34 disposition alternative is appropriate, then the court shall impose the  
35 standard range for the offense, or if the court concludes, and enters  
36 reasons for its conclusion, that such disposition would effectuate a  
37 manifest injustice, the court shall impose a disposition above the  
38 standard range as indicated in option D of RCW 13.40.0357 if the

1 disposition is an increase from the standard range and the confinement  
2 of the offender does not exceed a maximum of fifty-two weeks, suspend  
3 execution of the disposition, and place the offender on community  
4 supervision for up to one year. As a condition of the suspended  
5 disposition, the court shall require the offender to undergo available  
6 outpatient drug/alcohol treatment and/or inpatient drug/alcohol  
7 treatment. For purposes of this section, inpatient treatment may not  
8 exceed (~~ninety~~) one hundred twenty days. As a condition of the  
9 suspended disposition, the court may impose conditions of community  
10 supervision and other sanctions, including up to thirty days of  
11 confinement, one hundred fifty hours of community restitution, and  
12 payment of legal financial obligations and restitution.

13 (6) The drug/alcohol treatment provider shall submit monthly  
14 reports on the respondent's progress in treatment to the court and the  
15 parties. The reports shall reference the treatment plan and include at  
16 a minimum the following: Dates of attendance, respondent's compliance  
17 with requirements, treatment activities, the respondent's relative  
18 progress in treatment, and any other material specified by the court at  
19 the time of the disposition.

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

22 If the offender violates any condition of the disposition or the  
23 court finds that the respondent is failing to make satisfactory  
24 progress in treatment, the court may impose sanctions pursuant to RCW  
25 13.40.200 or revoke the suspension and order execution of the  
26 disposition. The court shall give credit for any confinement time  
27 previously served if that confinement was for the offense for which the  
28 suspension is being revoked.

29 (7) For purposes of this section, "victim" means any person who has  
30 sustained emotional, psychological, physical, or financial injury to  
31 person or property as a direct result of the offense charged. "Victim"  
32 may also include a known parent or guardian of a victim who is a minor  
33 child or is not a minor child but is incapacitated, incompetent,  
34 disabled, or deceased.

35 (8) Whenever a juvenile offender is entitled to credit for time  
36 spent in detention prior to a dispositional order, the dispositional  
37 order shall specifically state the number of days of credit for time  
38 served.

1 (9) In no case shall the term of confinement imposed by the court  
2 at disposition exceed that to which an adult could be subjected for the  
3 same offense.

4 (10) A disposition under this section is not appealable under RCW  
5 13.40.230.

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

8 With the exception of youth committed to the department of social  
9 and health services, juvenile rehabilitation administration, when an  
10 adjudicated offender is ordered to be confined in a local detention  
11 facility pursuant to a disposition or modification order, the court may  
12 grant credit toward the local sanction for time served or to be served  
13 in a voluntary substance abuse or mental health inpatient treatment  
14 facility, even though such facility is not a "detention facility" as  
15 defined by RCW 13.40.020.

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