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HOUSE BILL 2164

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Orwall, Appleton, Carlyle, and Ryu

Prefiled 01/07/14. Read first time 01/13/14. Referred to Committee on Judiciary.

1 AN ACT Relating to evidence-based and research-based interventions  
2 for juvenile firearm offenders; and amending RCW 13.40.193 and  
3 13.40.127.

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

5 **Sec. 1.** RCW 13.40.193 and 2003 c 53 s 100 are each amended to read  
6 as follows:

7 (1) If a respondent is found to have been in possession of a  
8 firearm in violation of RCW 9.41.040(2)(a)(iii), the court shall impose  
9 a minimum disposition of ten days of confinement. If the offender's  
10 standard range of disposition for the offense as indicated in RCW  
11 13.40.0357 is more than thirty days of confinement, the court shall  
12 commit the offender to the department for the standard range  
13 disposition. The offender shall not be released until the offender has  
14 served a minimum of ten days in confinement.

15 (2)(a) If a respondent is found to have been in possession of a  
16 firearm in violation of RCW 9.41.040, the disposition must include a  
17 requirement that the respondent participate in a qualifying program as  
18 described in (b) of this subsection, unless no such program is

1 available. If the respondent has previously completed a qualifying  
2 program the disposition may, but need not, include a requirement that  
3 the respondent participate in a qualifying program.

4 (b) For purposes of this section, "qualifying program" means an  
5 aggression replacement training program, a functional family therapy  
6 program, or another program applicable to the juvenile firearm offender  
7 population that has been identified as evidence-based or research-based  
8 and cost-beneficial in the current list prepared at the direction of  
9 the legislature by the Washington state institute for public policy.

10 (3) If the court finds that the respondent or an accomplice was  
11 armed with a firearm, the court shall determine the standard range  
12 disposition for the offense pursuant to RCW 13.40.160. If the offender  
13 or an accomplice was armed with a firearm when the offender committed  
14 any felony other than possession of a machine gun, possession of a  
15 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
16 possession of a firearm in the first and second degree, or use of a  
17 machine gun in a felony, the following periods of total confinement  
18 must be added to the sentence: For a class A felony, six months; for  
19 a class B felony, four months; and for a class C felony, two months.  
20 The additional time shall be imposed regardless of the offense's  
21 juvenile disposition offense category as designated in RCW 13.40.0357.

22 ~~((+3))~~ (4) When a disposition under this section would effectuate  
23 a manifest injustice, the court may impose another disposition. When  
24 a judge finds a manifest injustice and imposes a disposition of  
25 confinement exceeding thirty days, the court shall commit the juvenile  
26 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used  
27 to determine the range. When a judge finds a manifest injustice and  
28 imposes a disposition of confinement less than thirty days, the  
29 disposition shall be comprised of confinement or community supervision  
30 or both. Regardless of whether or not a judge has found a manifest  
31 injustice, subsection (2) of this section applies to any disposition  
32 for unlawful possession of a firearm in violation of RCW 9.41.040.

33 ~~((+4))~~ (5) Any term of confinement ordered pursuant to this  
34 section shall run consecutively to any term of confinement imposed in  
35 the same disposition for other offenses.

36 **Sec. 2.** RCW 13.40.127 and 2013 c 179 s 5 are each amended to read  
37 as follows:

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

- 3 (a) Is charged with a sex or violent offense;
- 4 (b) Has a criminal history which includes any felony;
- 5 (c) Has a prior deferred disposition or deferred adjudication; or
- 6 (d) Has two or more adjudications.

7 (2) The juvenile court may, upon motion at least fourteen days  
8 before commencement of trial and, after consulting the juvenile's  
9 custodial parent or parents or guardian and with the consent of the  
10 juvenile, continue the case for disposition for a period not to exceed  
11 one year from the date the juvenile is found guilty. The court shall  
12 consider whether the offender and the community will benefit from a  
13 deferred disposition before deferring the disposition. The court may  
14 waive the fourteen-day period anytime before the commencement of trial  
15 for good cause.

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

17 (a) Stipulate to the admissibility of the facts contained in the  
18 written police report;

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

22 (c) Waive the following rights to: (i) A speedy disposition; and  
23 (ii) call and confront witnesses; and

24 (d) Acknowledge the direct consequences of being found guilty and  
25 the direct consequences that will happen if an order of disposition is  
26 entered.

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

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

32 (5) Any juvenile granted a deferral of disposition under this  
33 section shall be placed under community supervision. The court may  
34 impose any conditions of supervision that it deems appropriate  
35 including posting a probation bond. Payment of restitution under RCW  
36 13.40.190 shall be a condition of community supervision under this  
37 section.

1 The court may require a juvenile offender convicted of animal  
2 cruelty in the first degree to submit to a mental health evaluation to  
3 determine if the offender would benefit from treatment and such  
4 intervention would promote the safety of the community. After  
5 consideration of the results of the evaluation, as a condition of  
6 community supervision, the court may order the offender to attend  
7 treatment to address issues pertinent to the offense.

8 The court may require the juvenile to undergo a mental health or  
9 substance abuse assessment, or both. If the assessment identifies a  
10 need for treatment, conditions of supervision may include treatment for  
11 the assessed need that has been demonstrated to improve behavioral  
12 health and reduce recidivism.

13 The court shall require a juvenile granted a deferral of  
14 disposition for unlawful possession of a firearm in violation of RCW  
15 9.41.040 to participate in a qualifying program as described in RCW  
16 13.40.193(2)(b), unless no such program is available. The court may,  
17 but need not, require participation in a qualifying program if the  
18 juvenile has previously completed a qualifying program.

19 (6) A parent who signed for a probation bond has the right to  
20 notify the counselor if the juvenile fails to comply with the bond or  
21 conditions of supervision. The counselor shall notify the court and  
22 surety of any failure to comply. A surety shall notify the court of  
23 the juvenile's failure to comply with the probation bond. The state  
24 shall bear the burden to prove, by a preponderance of the evidence,  
25 that the juvenile has failed to comply with the terms of community  
26 supervision.

27 (7)(a) Anytime prior to the conclusion of the period of  
28 supervision, the prosecutor or the juvenile's juvenile court community  
29 supervision counselor may file a motion with the court requesting the  
30 court revoke the deferred disposition based on the juvenile's lack of  
31 compliance or treat the juvenile's lack of compliance as a violation  
32 pursuant to RCW 13.40.200.

33 (b) If the court finds the juvenile failed to comply with the terms  
34 of the deferred disposition, the court may:

35 (i) Revoke the deferred disposition and enter an order of  
36 disposition; or

37 (ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

1 (8) At any time following deferral of disposition the court may,  
2 following a hearing, continue supervision for an additional one-year  
3 period for good cause.

4 (9)(a) At the conclusion of the period of supervision, the court  
5 shall determine whether the juvenile is entitled to dismissal of the  
6 deferred disposition only when the court finds:

7 (i) The deferred disposition has not been previously revoked;

8 (ii) The juvenile has completed the terms of supervision;

9 (iii) There are no pending motions concerning lack of compliance  
10 pursuant to subsection (7) of this section; and

11 (iv) The juvenile has either paid the full amount of restitution,  
12 or, made a good faith effort to pay the full amount of restitution  
13 during the period of supervision.

14 (b) If the court finds the juvenile is entitled to dismissal of the  
15 deferred disposition pursuant to (a) of this subsection, the juvenile's  
16 conviction shall be vacated and the court shall dismiss the case with  
17 prejudice, except that a conviction under RCW 16.52.205 shall not be  
18 vacated. Whenever a case is dismissed with restitution still owing,  
19 the court shall enter a restitution order pursuant to RCW 13.40.190 for  
20 any unpaid restitution. Jurisdiction to enforce payment and modify  
21 terms of the restitution order shall be the same as those set forth in  
22 RCW 13.40.190.

23 (c) If the court finds the juvenile is not entitled to dismissal of  
24 the deferred disposition pursuant to (a) of this subsection, the court  
25 shall revoke the deferred disposition and enter an order of  
26 disposition. A deferred disposition shall remain a conviction unless  
27 the case is dismissed and the conviction is vacated pursuant to (b) of  
28 this subsection or sealed pursuant to RCW 13.50.050.

29 (10)(a)(i) Any time the court vacates a conviction pursuant to  
30 subsection (9) of this section, if the juvenile is eighteen years of  
31 age or older and the full amount of restitution ordered has been paid,  
32 the court shall enter a written order sealing the case.

33 (ii) Any time the court vacates a conviction pursuant to subsection  
34 (9) of this section, if the juvenile is not eighteen years of age or  
35 older and full restitution ordered has been paid, the court shall  
36 schedule an administrative sealing hearing to take place no later than  
37 thirty days after the respondent's eighteenth birthday, at which time

1 the court shall enter a written order sealing the case. The  
2 respondent's presence at the administrative sealing hearing is not  
3 required.

4 (iii) Any deferred disposition vacated prior to June 7, 2012, is  
5 not subject to sealing under this subsection.

6 (b) Nothing in this subsection shall preclude a juvenile from  
7 petitioning the court to have the records of his or her deferred  
8 dispositions sealed under RCW 13.50.050 (11) and (12).

9 (c) Records sealed under this provision shall have the same legal  
10 status as records sealed under RCW 13.50.050.

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