

SHB 2906 - H AMD TO H AMD (H-4399.1/16) 688
By Representative Goodman

ADOPTED 02/15/2016

1 On page 2, after line 14 of the amendment, insert the following:

2 "Sec. 2. RCW 13.40.020 and 2014 c 110 s 1 are each amended to
3 read as follows:

4 For the purposes of this chapter:

5 (1) "Assessment" means an individualized examination of a child
6 to determine the child's psychosocial needs and problems, including
7 the type and extent of any mental health, substance abuse, or co-
8 occurring mental health and substance abuse disorders, and
9 recommendations for treatment. "Assessment" includes, but is not
10 limited to, drug and alcohol evaluations, psychological and
11 psychiatric evaluations, records review, clinical interview, and
12 administration of a formal test or instrument;

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

23 (3) "Community-based sanctions" may include one or more of the
24 following:

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

26 (b) Community restitution not to exceed one hundred fifty hours
27 of community restitution;

28 (4) "Community restitution" means compulsory service, without
29 compensation, performed for the benefit of the community by the
30 offender as punishment for committing an offense. Community
31 restitution may be performed through public or private organizations
32 or through work crews;

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

- 14 (a) Community-based sanctions;
- 15 (b) Community-based rehabilitation;
- 16 (c) Monitoring and reporting requirements;
- 17 (d) Posting of a probation bond;

18 (6) "Confinement" means physical custody by the department of
19 social and health services in a facility operated by or pursuant to a
20 contract with the state, or physical custody in a detention facility
21 operated by or pursuant to a contract with any county. The county may
22 operate or contract with vendors to operate county detention
23 facilities. The department may operate or contract to operate
24 detention facilities for juveniles committed to the department.
25 Pretrial confinement or confinement of less than thirty-one days
26 imposed as part of a disposition or modification order may be served
27 consecutively or intermittently, in the discretion of the court;

28 (7) "Court," when used without further qualification, means the
29 juvenile court judge(s) or commissioner(s);

30 (8) "Criminal history" includes all criminal complaints against
31 the respondent for which, prior to the commission of a current
32 offense:

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

37 (b) The criminal complaint was diverted by a prosecutor pursuant
38 to the provisions of this chapter on agreement of the respondent and
39 after an advisement to the respondent that the criminal complaint
40 would be considered as part of the respondent's criminal history. A

1 successfully completed deferred adjudication that was entered before
2 July 1, 1998, or a deferred disposition shall not be considered part
3 of the respondent's criminal history;

4 (9) "Department" means the department of social and health
5 services;

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

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

30 (12) "Foster care" means temporary physical care in a foster
31 family home or group care facility as defined in RCW 74.15.020 and
32 licensed by the department, or other legally authorized care;

33 (13) "Institution" means a juvenile facility established pursuant
34 to chapters 72.05 and 72.16 through 72.20 RCW;

35 (14) "Intensive supervision program" means a parole program that
36 requires intensive supervision and monitoring, offers an array of
37 individualized treatment and transitional services, and emphasizes
38 community involvement and support in order to reduce the likelihood a
39 juvenile offender will commit further offenses;

1 (15) "Juvenile," "youth," and "child" mean any individual who is
2 under the chronological age of eighteen years and who has not been
3 previously transferred to adult court pursuant to RCW 13.40.110,
4 unless the individual was convicted of a lesser charge or acquitted
5 of the charge for which he or she was previously transferred pursuant
6 to RCW 13.40.110 or who is not otherwise under adult court
7 jurisdiction;

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

12 (17) "Labor" means the period of time before a birth during which
13 contractions are of sufficient frequency, intensity, and duration to
14 bring about effacement and progressive dilation of the cervix;

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

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

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

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

34 (22) "Physical restraint" means the use of any bodily force or
35 physical intervention to control a juvenile offender or limit a
36 juvenile offender's freedom of movement in a way that does not
37 involve a mechanical restraint. Physical restraint does not include
38 momentary periods of minimal physical restriction by direct person-
39 to-person contact, without the aid of mechanical restraint,
40 accomplished with limited force and designed to:

1 (a) Prevent a juvenile offender from completing an act that would
2 result in potential bodily harm to self or others or damage property;

3 (b) Remove a disruptive juvenile offender who is unwilling to
4 leave the area voluntarily; or

5 (c) Guide a juvenile offender from one location to another;

6 (23) "Postpartum recovery" means (a) the entire period a woman or
7 youth is in the hospital, birthing center, or clinic after giving
8 birth and (b) an additional time period, if any, a treating physician
9 determines is necessary for healing after the youth leaves the
10 hospital, birthing center, or clinic;

11 (24) "Probation bond" means a bond, posted with sufficient
12 security by a surety justified and approved by the court, to secure
13 the offender's appearance at required court proceedings and
14 compliance with court-ordered community supervision or conditions of
15 release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means
16 a deposit of cash or posting of other collateral in lieu of a bond if
17 approved by the court;

18 (25) "Respondent" means a juvenile who is alleged or proven to
19 have committed an offense;

20 (26) "Restitution" means financial reimbursement by the offender
21 to the victim, and shall be limited to easily ascertainable damages
22 for injury to or loss of property, actual expenses incurred for
23 medical treatment for physical injury to persons, lost wages
24 resulting from physical injury, and costs of the victim's counseling
25 reasonably related to the offense. Restitution shall not include
26 reimbursement for damages for mental anguish, pain and suffering, or
27 other intangible losses. Nothing in this chapter shall limit or
28 replace civil remedies or defenses available to the victim or
29 offender;

30 (27) "Restorative justice" means practices, policies, and
31 programs informed by and sensitive to the needs of crime victims that
32 are designed to encourage offenders to accept responsibility for
33 repairing the harm caused by their offense by providing safe and
34 supportive opportunities for voluntary participation and
35 communication between the victim, the offender, their families, and
36 relevant community members;

37 (28) "Restraints" means anything used to control the movement of
38 a person's body or limbs and includes:

39 (a) Physical restraint; or

1 (b) Mechanical device including but not limited to: Metal
2 handcuffs, plastic ties, ankle restraints, leather cuffs, other
3 hospital-type restraints, tasers, or batons;

4 (29) "Screening" means a process that is designed to identify a
5 child who is at risk of having mental health, substance abuse, or co-
6 occurring mental health and substance abuse disorders that warrant
7 immediate attention, intervention, or more comprehensive assessment.
8 A screening may be undertaken with or without the administration of a
9 formal instrument;

10 (30) "Secretary" means the secretary of the department of social
11 and health services. "Assistant secretary" means the assistant
12 secretary for juvenile rehabilitation for the department;

13 (31) "Services" means services which provide alternatives to
14 incarceration for those juveniles who have pleaded or been
15 adjudicated guilty of an offense or have signed a diversion agreement
16 pursuant to this chapter;

17 (32) "Sex offense" means an offense defined as a sex offense in
18 RCW 9.94A.030;

19 (33) "Sexual motivation" means that one of the purposes for which
20 the respondent committed the offense was for the purpose of his or
21 her sexual gratification;

22 (34) "Surety" means an entity licensed under state insurance laws
23 or by the state department of licensing, to write corporate,
24 property, or probation bonds within the state, and justified and
25 approved by the superior court of the county having jurisdiction of
26 the case;

27 (35) "Transportation" means the conveying, by any means, of an
28 incarcerated pregnant youth from the institution or detention
29 facility to another location from the moment she leaves the
30 institution or detention facility to the time of arrival at the other
31 location, and includes the escorting of the pregnant incarcerated
32 youth from the institution or detention facility to a transport
33 vehicle and from the vehicle to the other location;

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

37 (37) "Violent offense" means a violent offense as defined in RCW
38 9.94A.030;

1 (38) "Youth court" means a diversion unit under the supervision
2 of the juvenile court."

3 Renumber the remaining sections consecutively, correct any
4 internal references accordingly, and correct the title.

EFFECT: Includes restorative justice programs within the
definition of community-based rehabilitation for juvenile offenders.

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