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HOUSE BILL 1505

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State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Goodman, Kagi, Appleton, Jinkins, and Tharinger

Read first time 01/21/15. Referred to Committee on Early Learning & Human Services.

1            AN ACT Relating to juvenile restorative justice programs; and  
2 amending RCW 13.40.070.

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

4            **Sec. 1.** RCW 13.40.070 and 2013 c 179 s 3 are each amended to  
5 read as follows:

6            (1) Complaints referred to the juvenile court alleging the  
7 commission of an offense shall be referred directly to the  
8 prosecutor. The prosecutor, upon receipt of a complaint, shall screen  
9 the complaint to determine whether:

10            (a) The alleged facts bring the case within the jurisdiction of  
11 the court; and

12            (b) On a basis of available evidence there is probable cause to  
13 believe that the juvenile did commit the offense.

14            (2) If the identical alleged acts constitute an offense under  
15 both the law of this state and an ordinance of any city or county of  
16 this state, state law shall govern the prosecutor's screening and  
17 charging decision for both filed and diverted cases.

18            (3) If the requirements of subsections (1)(a) and (b) of this  
19 section are met, the prosecutor shall either file an information in  
20 juvenile court or divert the case, as set forth in subsections (5),  
21 (6), and (8) of this section. If the prosecutor finds that the

1 requirements of subsection (1)(a) and (b) of this section are not  
2 met, the prosecutor shall maintain a record, for one year, of such  
3 decision and the reasons therefor. In lieu of filing an information  
4 or diverting an offense a prosecutor may file a motion to modify  
5 community supervision where such offense constitutes a violation of  
6 community supervision.

7 (4) An information shall be a plain, concise, and definite  
8 written statement of the essential facts constituting the offense  
9 charged. It shall be signed by the prosecuting attorney and conform  
10 to chapter 10.37 RCW.

11 (5) Except as provided in RCW 13.40.213 and subsection (7) of  
12 this section, where a case is legally sufficient, the prosecutor  
13 shall file an information with the juvenile court if:

14 (a) An alleged offender is accused of a class A felony, a class B  
15 felony, an attempt to commit a class B felony, a class C felony  
16 listed in RCW 9.94A.411(2) as a crime against persons or listed in  
17 RCW 9A.46.060 as a crime of harassment, or a class C felony that is a  
18 violation of RCW 9.41.080 or 9.41.040(2)(a)(~~(iii)~~) (iv); or

19 (b) An alleged offender is accused of a felony and has a criminal  
20 history of any felony, or at least two gross misdemeanors, or at  
21 least two misdemeanors; or

22 (c) An alleged offender has previously been committed to the  
23 department; or

24 (d) An alleged offender has been referred by a diversion unit for  
25 prosecution or desires prosecution instead of diversion; or

26 (e) An alleged offender has three or more diversion agreements on  
27 the alleged offender's criminal history; or

28 (f) A special allegation has been filed that the offender or an  
29 accomplice was armed with a firearm when the offense was committed.

30 (6) Where a case is legally sufficient the prosecutor shall  
31 divert the case if the alleged offense is a misdemeanor or gross  
32 misdemeanor or violation and the alleged offense is the offender's  
33 first offense or violation. If the alleged offender is charged with a  
34 related offense that must or may be filed under subsections (5) and  
35 (8) of this section, a case under this subsection may also be filed.

36 (7) Where a case is legally sufficient to charge an alleged  
37 offender with either prostitution or prostitution loitering and the  
38 alleged offense is the offender's first prostitution or prostitution  
39 loitering offense, the prosecutor shall divert the case.

1 (8) Where a case is legally sufficient and falls into neither  
2 subsection (5) nor (6) of this section, it may be filed or diverted.  
3 In deciding whether to file or divert an offense under this section  
4 the prosecutor shall be guided only by the length, seriousness, and  
5 recency of the alleged offender's criminal history and the  
6 circumstances surrounding the commission of the alleged offense.

7 (9) Whenever a juvenile is placed in custody or, where not placed  
8 in custody, referred to a diversion interview, the parent or legal  
9 guardian of the juvenile shall be notified as soon as possible  
10 concerning the allegation made against the juvenile and the current  
11 status of the juvenile. Where a case involves victims of crimes  
12 against persons or victims whose property has not been recovered at  
13 the time a juvenile is referred to a diversion unit, the victim shall  
14 be notified of the referral and informed how to contact the unit.

15 (10) The responsibilities of the prosecutor under subsections (1)  
16 through (9) of this section may be performed by a juvenile court  
17 probation counselor for any complaint referred to the court alleging  
18 the commission of an offense which would not be a felony if committed  
19 by an adult, if the prosecutor has given sufficient written notice to  
20 the juvenile court that the prosecutor will not review such  
21 complaints.

22 (11) The prosecutor, juvenile court probation counselor, or  
23 diversion unit may, in exercising their authority under this section  
24 or RCW 13.40.080, refer juveniles to mediation or victim offender  
25 reconciliation programs. Such mediation or victim offender  
26 reconciliation programs shall be voluntary for victims.

27 (12) The prosecutor, juvenile court probation counselor, or  
28 diversion unit may, in exercising their authority under this section  
29 or RCW 13.40.080, refer juveniles to restorative justice programs  
30 except in cases where the juvenile is alleged to have committed a sex  
31 offense or a serious violent offense as defined in RCW 9.94A.030.  
32 These restorative justice programs are voluntary for victims.

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