**1169-S.E AMS WM S2943.1 - NOT FOR FLOOR USE**

**ESHB 1169** - S COMM AMD

By Committee on Ways & Means

**ADOPTED 04/12/2023**

Strike everything after the enacting clause and insert the following:

**"PART I**

**Sec.**  RCW 7.68.035 and 2018 c 269 s 19 are each amended to read as follows:

(1)((~~(a) When~~)) Except as provided in subsection (4) of this section, when any adult person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

((~~(b) When any juvenile is adjudicated of an offense that is a most serious offense as defined in RCW 9.94A.030, or a sex offense under chapter 9A.44 RCW, there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action.~~

~~(c) When any juvenile is adjudicated of an offense which has a victim, and which is not a most serious offense as defined in RCW 9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall order up to seven hours of community restitution, unless the court finds that such an order is not practicable for the offender. This community restitution must be imposed consecutively to any other community restitution the court imposes for the offense.~~))

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.490(2), and 46.09.470(2).

(3) ((~~When~~)) Except as provided in subsection (4) of this section, when any adult person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) The court shall not impose the penalty assessment under this section if the court finds that the defendant, at the time of sentencing, is indigent as defined in RCW 10.01.160(3).

(5) Upon motion by a defendant, the court shall waive any crime victim penalty assessment imposed prior to the effective date of this section if:

(a) The person was a juvenile at the time the penalty assessment was imposed; or

(b) The person does not have the ability to pay the penalty assessment. A person does not have the ability to pay if the person is indigent as defined in RCW 10.01.160(3).

(6) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer. Each county shall deposit one hundred percent of the money it receives per case or cause of action under subsection (1) of this section, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and all money it receives under subsection ((~~(7)~~)) (9) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his or her surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

((~~(5)~~)) (7) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection ((~~(4)~~)) (6) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection ((~~(4)~~)) (6) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection ((~~(4)~~)) (6) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection ((~~(4)~~)) (6) of this section to the state treasurer for deposit in the state general fund.

((~~(6)~~)) (8) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

((~~(7)~~)) (9) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.50.100 and 35.20.220 to the county treasurer for deposit as provided in subsection ((~~(4)~~)) (6) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 7.68 RCW to read as follows:

(1) The state crime victim and witness assistance account is created in the state treasury. The account shall consist of funds appropriated by the legislature for comprehensive crime victim and witness programs under RCW 7.68.035. The purpose of the account is to mitigate to fiscal impact from the elimination of the crime victim penalty assessment on juveniles and indigent adults in this act.

(2) Pursuant to appropriation, each quarter, the state treasurer must distribute moneys deposited in the state crime victim and witness assistance account to counties on the basis of each county's distribution factor under RCW 82.14.310.

(3) Counties may expend moneys distributed under this section only for purposes specified in RCW 7.68.035.

**Sec.**  RCW 43.43.7532 and 2002 c 289 s 5 are each amended to read as follows:

The state DNA database account is created in the custody of the state treasurer. ((~~All~~)) The account shall consist of funds appropriated by the legislature for operation and maintenance of the DNA database and all receipts under RCW 43.43.7541 ((~~must be deposited into the account~~)). Expenditures from the account may be used only for creation, operation, and maintenance of the DNA database under RCW 43.43.754. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec.**  RCW 43.43.7541 and 2018 c 269 s 18 are each amended to read as follows:

((~~Every sentence imposed for a crime specified in RCW 43.43.754 must include a fee of one hundred dollars unless the state has previously collected the offender's DNA as a result of a prior conviction. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030 and other applicable law. For a sentence imposed under chapter 9.94A RCW, the fee is payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. For all other sentences, the fee is payable by the offender in the same manner as other assessments imposed.~~))

(1) The clerk of the court shall transmit ((~~eighty~~)) 80 percent of ((~~the fee~~)) any amounts collected for fees imposed prior to the effective date of this section for the collection of an offender's DNA to the state treasurer for deposit in the state DNA database account created under RCW 43.43.7532, and shall transmit ((~~twenty~~)) 20 percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754. ((~~This fee shall not be imposed on juvenile offenders if the state has previously collected the juvenile offender's DNA as a result of a prior conviction.~~))

(2) Upon motion by the offender, the court shall waive any fee for the collection of the offender's DNA imposed prior to the effective date of this section.

NEW SECTION. **Sec.**  (1) The administrative office of the courts must review revenue collection data before and after the effective date of this section and provide a more accurate assessment of the fiscal impact of the elimination of the crime victim penalty assessment on juveniles and indigent adults in this act. The assessment must be provided to the appropriate committees of the legislature by February 1, 2025, to inform future distributions to the account created in section 2 of this act.

(2) The administrative office of the courts, in consultation with county clerks, must review the grant program created in RCW 2.56.190 to determine if the program continues to serve its intended purpose in light of legislative changes to legal financial obligations. The office's findings and recommendations must be provided to the appropriate committees of the legislature by December 1, 2023.

**PART II**

**CONFORMING AMENDMENTS**

**Sec.**  RCW 7.68.240 and 2022 c 260 s 22 are each amended to read as follows:

Upon a showing by any convicted person or the state that five years have elapsed from the establishment of such escrow account and further that no actions are pending against such convicted person pursuant to RCW 7.68.200 through 7.68.280, the department shall immediately pay over 50 percent of any moneys in the escrow account to such person or his or her legal representatives and 50 percent of any moneys in the escrow account to the fund under RCW 7.68.035((~~(4)~~)) (6).

**Sec.**  RCW 9.92.060 and 2022 c 260 s 6 are each amended to read as follows:

(1) Whenever any person is convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery, rape of a child, or rape, the superior court may, in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by the superior court, and, upon such terms as the superior court may determine, that the sentenced person be placed under the charge of:

(a) A community corrections officer employed by the department of corrections, if the person is subject to supervision under RCW 9.94A.501 or 9.94A.5011; or

(b) A probation officer employed or contracted for by the county, if the county has elected to assume responsibility for the supervision of superior court misdemeanant probationers.

(2) As a condition to suspension of sentence, the superior court ((~~shall require the payment of the penalty assessment required by RCW 7.68.035. In addition, the superior court~~)) may require the convicted person to make such monetary payments, on such terms as the superior court deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay any fine imposed and not suspended and the court or other costs incurred in the prosecution of the case, including reimbursement of the state for costs of extradition if return to this state by extradition was required; and (d) to contribute to a county or interlocal drug fund.

(3) At any time, including at sentencing, the court may determine that the offender is not required to pay, or may relieve the offender of the requirement to pay, full or partial restitution and accrued interest on restitution where the entity to whom restitution is owed is an insurer or a state agency, except for restitution owed to the department of labor and industries under chapter 7.68 RCW, if the court finds that the offender does not have the current or likely future ability to pay. A person does not have the current ability to pay if the person is indigent as defined in RCW 10.01.160(3). For the purposes of this subsection, the terms "insurer" and "state agency" have the same meanings as provided in RCW 9.94A.750(3).

(4) As a condition of the suspended sentence, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanant probationers within its jurisdiction, the superior court misdemeanant probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanant probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If restitution to the victim has been ordered under subsection (2)(b) of this section and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If the superior court has ordered supervision and restitution has not been made, the officer shall inform the prosecutor of that violation of the terms of the suspended sentence not less than three months prior to the termination of the suspended sentence.

**Sec.**  RCW 9.94A.6333 and 2022 c 260 s 13 are each amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, and the offender is not being supervised by the department, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the nonfinancial conditions or requirements of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) The state has the burden of showing noncompliance by a preponderance of the evidence;

(c) If the court finds that a violation has been proved, it may impose the sanctions specified in RCW 9.94A.633(1). Alternatively, the court may:

(i) Convert a term of partial confinement to total confinement; or

(ii) Convert community restitution obligation to total or partial confinement;

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding community restitution obligations; and

(e) If the violation involves a failure to undergo or comply with a mental health status evaluation and/or outpatient mental health treatment, the court shall seek a recommendation from the treatment provider or proposed treatment provider. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of chapter 71.05 RCW shall be considered in preference to incarceration in a local or state correctional facility.

(3) If an offender fails to pay legal financial obligations as a requirement of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) The state has the burden of showing noncompliance by a preponderance of the evidence;

(c) The court may not sanction the offender for failure to pay legal financial obligations unless the court finds, after a hearing and on the record, that the failure to pay is willful. A failure to pay is willful if the offender has the current ability to pay but refuses to do so. In determining whether the offender has the current ability to pay, the court shall inquire into and consider: (i) The offender's income and assets; (ii) the offender's basic living costs as defined by RCW 10.101.010 and other liabilities including child support and other legal financial obligations; and (iii) the offender's bona fide efforts to acquire additional resources. An offender who is indigent as defined ((~~by [in]~~)) in RCW 10.01.160(3) is presumed to lack the current ability to pay;

(d) If the court determines that the offender is homeless or a person who is mentally ill, as defined in RCW 71.24.025, failure to pay a legal financial obligation is not willful noncompliance and shall not subject the offender to penalties;

(e) If the court finds that a failure to pay is willful noncompliance, it may impose the sanctions specified in RCW 9.94A.633(1); and

(f) If the court finds that the violation was not willful, the court may, and if the court finds that the defendant is indigent as defined in RCW 10.01.160(3), the court shall modify the terms of payment of the legal financial obligations, reduce or waive nonrestitution legal financial obligations, or convert nonrestitution legal financial obligations to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. ((~~The crime victim penalty assessment under RCW 7.68.035 may not be reduced, waived, or converted to community restitution hours.~~))

(4) Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement ordered by the court.

(5) Nothing in this section prohibits the filing of escape charges if appropriate.

**Sec.**  RCW 9.94A.760 and 2022 c 260 s 4 and 2022 c 29 s 4 are each reenacted and amended to read as follows:

(1) Whenever a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence. The court may not order an offender to pay costs as described in RCW 10.01.160 if the court finds that the offender at the time of sentencing is indigent as defined in RCW 10.01.160(3). An offender being indigent as defined in RCW 10.01.160(3) is not grounds for failing to impose restitution ((~~or the crime victim penalty assessment under RCW 7.68.035~~)), subject to RCW 9.94A.750(3) and 9.94A.753(3). The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount if the department has active supervision of the offender, otherwise the county clerk shall set the amount.

(2) Upon receipt of each payment made by or on behalf of an offender, the county clerk shall distribute the payment in the following order of priority until satisfied:

(a) First, proportionally to restitution to victims that have not been fully compensated from other sources;

(b) Second, proportionally to restitution to insurance or other sources with respect to a loss that has provided compensation to victims;

(c) Third, proportionally to crime victims' assessments that have not been waived under RCW 7.68.035; and

(d) Fourth, proportionally to costs, fines, and other assessments required by law.

(3) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration. The court shall not order the offender to pay the cost of incarceration if the court finds that the offender at the time of sentencing is indigent as defined in RCW 10.01.160(3). Costs of incarceration ordered by the court shall not exceed a rate of $50 per day of incarceration, if incarcerated in a prison, or the actual cost of incarceration per day of incarceration, if incarcerated in a county jail. In no case may the court require the offender to pay more than $100 per day for the cost of incarceration. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

(4) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be issued immediately. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department or the county clerk may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(5)(a) Independent of the department or the county clerk, the party or entity to whom the legal financial obligation is owed shall have the authority to use any other remedies available to the party or entity to collect the legal financial obligation. These remedies include enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment.

(b) If restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or a victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy of the victim may be enforced for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6).

(c) All other restitution obligations for an offense committed prior to July 1, 2000, may be enforced at any time during the 10-year period following the offender's release from total confinement or within 10 years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial 10-year period, the superior court may extend the criminal judgment an additional 10 years for payment of restitution obligations. All other restitution obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the restitution obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime.

(d) All other legal financial obligations other than restitution may be enforced at any time during the 10-year period following the offender's release from total confinement or within 10 years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial 10-year period, the superior court may extend the criminal judgment an additional 10 years for payment of nonrestitution legal financial obligations only if the court finds that the offender has the current or likely future ability to pay the obligations. A person does not have the current ability to pay if the person is indigent as defined in RCW 10.01.160(3).

(e) The department may only supervise the offender's compliance with payment of the legal financial obligations during any period in which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is confined in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(6) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to respond truthfully and honestly to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring all documents requested by the department.

(7) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(8)(a) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. During the period of supervision, the department may require the offender to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the department in order to prepare the collection schedule.

(b) Subsequent to any period of supervision, or if the department is not authorized to supervise the offender in the community, the county clerk may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the county clerk sets the monthly payment amount, or if the department set the monthly payment amount and the department has subsequently turned the collection of the legal financial obligation over to the county clerk, the clerk may modify the monthly payment amount without the matter being returned to the court. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule.

(9) After the judgment and sentence or payment order is entered, the department is authorized, for any period of supervision, to collect the legal financial obligation from the offender. Subsequent to any period of supervision or, if the department is not authorized to supervise the offender in the community, the county clerk is authorized to collect unpaid legal financial obligations from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purpose of disbursements. The department and the county clerks are authorized, but not required, to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(10) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.7701. Any party obtaining a wage assignment shall notify the county clerk. The county clerks shall notify the department, or the administrative office of the courts, whichever is providing the monthly billing for the offender.

(11) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740. If the court determines that the offender is homeless or a person who is mentally ill, as defined in RCW 71.24.025, failure to pay a legal financial obligation is not willful noncompliance and shall not subject the offender to penalties.

(12)(a) The administrative office of the courts shall mail individualized periodic billings to the address known by the office for each offender with an unsatisfied legal financial obligation.

(b) The billing shall direct payments to the county clerk.

(c) The county clerk shall provide the administrative office of the courts with notice of payments by such offenders no less frequently than weekly.

(d) The county clerks, the administrative office of the courts, and the department shall maintain agreements to implement this subsection.

(13) The department shall arrange for the collection of unpaid legal financial obligations during any period of supervision in the community through the county clerk. The department shall either collect unpaid legal financial obligations or arrange for collections through another entity if the clerk does not assume responsibility or is unable to continue to assume responsibility for collection pursuant to subsection (5) of this section. The costs for collection services shall be paid by the offender.

(14) The county clerk may access the records of the employment security department for the purposes of verifying employment or income, seeking any assignment of wages, or performing other duties necessary to the collection of an offender's legal financial obligations.

(15) Nothing in this chapter makes the department, the state, the counties, or any state or county employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations or for the acts of any offender who is no longer, or was not, subject to supervision by the department for a term of community custody, and who remains under the jurisdiction of the court for payment of legal financial obligations.

**Sec.**  RCW 9.94B.040 and 2022 c 260 s 14 are each amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) In cases where conditions from a second or later sentence of community supervision begin prior to the term of the second or later sentence, the court shall treat a violation of such conditions as a violation of the sentence of community supervision currently being served.

(3) If an offender fails to comply with any of the nonfinancial requirements or conditions of a sentence the following provisions apply:

(a)(i) Following the violation, if the offender and the department make a stipulated agreement, the department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, jail time, or other sanctions available in the community.

(ii) Within 72 hours of signing the stipulated agreement, the department shall submit a report to the court and the prosecuting attorney outlining the violation or violations, and sanctions imposed. Within 15 days of receipt of the report, if the court is not satisfied with the sanctions, the court may schedule a hearing and may modify the department's sanctions. If this occurs, the offender may withdraw from the stipulated agreement.

(iii) If the offender fails to comply with the sanction administratively imposed by the department, the court may take action regarding the original noncompliance. Offender failure to comply with the sanction administratively imposed by the department may be considered an additional violation;

(b) In the absence of a stipulated agreement, or where the court is not satisfied with the department's sanctions as provided in (a) of this subsection, the court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(c) The state has the burden of showing noncompliance by a preponderance of the evidence. If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed 60 days for each violation, and may (i) convert a term of partial confinement to total confinement, (ii) convert community restitution obligation to total or partial confinement, or (iii) order one or more of the penalties authorized in (a)(i) of this subsection. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement order by the court;

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding community restitution obligations; and

(e) If the violation involves a failure to undergo or comply with mental status evaluation and/or outpatient mental health treatment, the community corrections officer shall consult with the treatment provider or proposed treatment provider. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of chapter 71.05 RCW shall be considered in preference to incarceration in a local or state correctional facility.

(4) If the violation involves failure to pay legal financial obligations, the following provisions apply:

(a) The department and the offender may enter into a stipulated agreement that the failure to pay was willful noncompliance, according to the provisions and requirements of subsection (3)(a) of this section;

(b) In the absence of a stipulated agreement, or where the court is not satisfied with the department's sanctions as provided in a stipulated agreement under (a) of this subsection, the court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(c) The state has the burden of showing noncompliance by a preponderance of the evidence. The court may not sanction the offender for failure to pay legal financial obligations unless the court finds, after a hearing and on the record, that the failure to pay is willful. A failure to pay is willful if the offender has the current ability to pay but refuses to do so. In determining whether the offender has the current ability to pay, the court shall inquire into and consider: (i) The offender's income and assets; (ii) the offender's basic living costs as defined by RCW 10.101.010 and other liabilities including child support and other legal financial obligations; and (iii) the offender's bona fide efforts to acquire additional resources. An offender who is indigent as defined ((~~by [in]~~)) in RCW 10.01.160(3) is presumed to lack the current ability to pay;

(d) If the court determines that the offender is homeless or a person who is mentally ill, as defined in RCW 71.24.025, failure to pay a legal financial obligation is not willful noncompliance and shall not subject the offender to penalties;

(e) If the court finds that the failure to pay is willful noncompliance, the court may order the offender to be confined for a period not to exceed 60 days for each violation or order one or more of the penalties authorized in subsection (3)(a)(i) of this section; and

(f) If the court finds that the violation was not willful, the court may, and if the court finds that the defendant is indigent as defined in RCW 10.01.160(3), the court shall modify the terms of payment of the legal financial obligations, reduce or waive nonrestitution legal financial obligations, or convert nonrestitution legal financial obligations to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. ((~~The crime victim penalty assessment under RCW 7.68.035 may not be reduced, waived, or converted to community restitution hours.~~))

(5) The community corrections officer may obtain information from the offender's mental health treatment provider on the offender's status with respect to evaluation, application for services, registration for services, and compliance with the supervision plan, without the offender's consent, as described under RCW 71.05.630.

(6) An offender under community placement or community supervision who is civilly detained under chapter 71.05 RCW, and subsequently discharged or conditionally released to the community, shall be under the supervision of the department of corrections for the duration of his or her period of community placement or community supervision. During any period of inpatient mental health treatment that falls within the period of community placement or community supervision, the inpatient treatment provider and the supervising community corrections officer shall notify each other about the offender's discharge, release, and legal status, and shall share other relevant information.

(7) Nothing in this section prohibits the filing of escape charges if appropriate.

**Sec.**  RCW 9.95.210 and 2022 c 260 s 7 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection in granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(b) For a defendant sentenced for a domestic violence offense, or under RCW 46.61.5055, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension continue upon such conditions and for such time as the court shall designate, not to exceed five years. The court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. Any time before entering an order terminating probation, the court may modify or revoke its order suspending the imposition or execution of the sentence if the defendant violates or fails to carry out any of the conditions of the suspended sentence.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court ((~~shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court~~)) may ((~~also~~)) require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) At any time, including at sentencing, the court may determine that the offender is not required to pay, or may relieve the offender of the requirement to pay, full or partial restitution and accrued interest on restitution where the entity to whom restitution is owed is an insurer or a state agency, except for restitution owed to the department of labor and industries under chapter 7.68 RCW, if the court finds that the offender does not have the current or likely future ability to pay. A person does not have the current ability to pay if the person is indigent as defined in RCW 10.01.160(3). For the purposes of this subsection, the terms "insurer" and "state agency" have the same meanings as provided in RCW 9.94A.750(3).

(5) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary for up to twelve months. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanant probationers within its jurisdiction, the superior court misdemeanant probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanant probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(6) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(7) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

(8) For purposes of this section, "domestic violence" means the same as in RCW 10.99.020.

**Sec.**  RCW 10.01.180 and 2022 c 260 s 15 are each amended to read as follows:

(1) A defendant sentenced to pay any fine, penalty, assessment, fee, or costs who willfully defaults in the payment thereof or of any installment is in contempt of court as provided in chapter 7.21 RCW. The court may issue a warrant of arrest for his or her appearance.

(2) When any fine, penalty, assessment, fee, or assessment of costs is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the obligation from those assets, and his or her failure to do so may be held to be contempt.

(3)(a) The court shall not sanction a defendant for contempt based on failure to pay fines, penalties, assessments, fees, or costs unless the court finds, after a hearing and on the record, that the failure to pay is willful. A failure to pay is willful if the defendant has the current ability to pay but refuses to do so.

(b) In determining whether the defendant has the current ability to pay, the court shall inquire into and consider: (i) The defendant's income and assets; (ii) the defendant's basic living costs as defined by RCW 10.101.010 and other liabilities including child support and other legal financial obligations; and (iii) the defendant's bona fide efforts to acquire additional resources. A defendant who is indigent as defined ((~~by [in]~~)) in RCW 10.01.160(3) is presumed to lack the current ability to pay.

(c) If the court determines that the defendant is homeless or a person who is mentally ill, as defined in RCW 71.24.025, failure to pay a legal financial obligation is not willful contempt and shall not subject the defendant to penalties.

(4) If a term of imprisonment for contempt for nonpayment of any fine, penalty, assessment, fee, or costs is ordered, the term of imprisonment shall be set forth in the commitment order, and shall not exceed one day for each $25 of the amount ordered, 30 days if the amount ordered of costs was imposed upon conviction of a violation or misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of any fine, penalty, assessment, fee, or costs shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.

(5) If it appears to the satisfaction of the court that the default in the payment of any fine, penalty, assessment, fee, or costs is not willful contempt, the court may, and if the defendant is indigent as defined in RCW 10.01.160(3), the court shall enter an order: (a) Allowing the defendant additional time for payment; (b) reducing the amount thereof or of each installment; (c) revoking the fine, penalty, assessment, fee, or costs or the unpaid portion thereof in whole or in part; or (d) converting the unpaid fine, penalty, assessment, fee, or costs to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. ((~~The crime victim penalty assessment under RCW 7.68.035 may not be reduced, revoked, or converted to community restitution hours.~~))

(6) A default in the payment of any fine, penalty, assessment, fee, or costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of any fine, penalty, assessment, fee, or costs shall not discharge a defendant committed to imprisonment for contempt until the amount has actually been collected.

**Sec.**  RCW 10.82.090 and 2022 c 260 s 12 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section and RCW 3.50.100, 3.62.020, and 35.20.220, restitution imposed in a judgment shall bear interest from the date of the judgment until payment, at the rate applicable to civil judgments. As of June 7, 2018, no interest shall accrue on nonrestitution legal financial obligations. All nonrestitution interest retained by the court shall be split 25 percent to the state treasurer for deposit in the state general fund, 25 percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, 25 percent to the county current expense fund, and 25 percent to the county current expense fund to fund local courts.

(2) The court may elect not to impose interest on any restitution the court orders. Before determining not to impose interest on restitution, the court shall inquire into and consider the following factors: (a) Whether the offender is indigent as defined in RCW ((~~10.101.010(3)~~)) 10.01.160(3) or general rule 34; (b) the offender's available funds, as defined in RCW 10.101.010(2), and other liabilities including child support and other legal financial obligations; (c) whether the offender is homeless; and (d) whether the offender is mentally ill, as defined in RCW 71.24.025. The court shall also consider the victim's input, if any, as it relates to any financial hardship caused to the victim if interest is not imposed. The court may also consider any other information that the court believes, in the interest of justice, relates to not imposing interest on restitution. After consideration of these factors, the court may waive the imposition of restitution interest.

(3) The court may, on motion by the offender, reduce or waive the interest on legal financial obligations levied as a result of a criminal conviction as follows:

(a) The court shall waive all interest on the portions of the legal financial obligations that are not restitution that accrued prior to June 7, 2018;

(b) The court may waive or reduce interest on the restitution portion of the legal financial obligations only if the principal has been paid in full, except as provided in (c) of this subsection. The court may grant the motion, establish a payment schedule, and retain jurisdiction over the offender for purposes of reviewing and revising the reduction or waiver of interest;

(c) The court may, following the offender's release from total confinement, waive or reduce interest on restitution that accrued during the offender's period of incarceration if the court finds that the offender does not have the current or likely future ability to pay. A person does not have the current ability to pay if the person is indigent as defined in RCW 10.01.160(3). The prosecuting attorney shall make reasonable efforts to notify the victim entitled to restitution of the date and place of the hearing. The court shall also consider the victim's input, if any, as it relates to any financial hardship caused to the victim if interest is reduced or waived.

(4) This section only applies to adult offenders.

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

No fine, administrative fee, cost, or surcharge may be imposed or collected by the court or any agent of the court against any juvenile or a juvenile's parent or guardian, or other person having custody of the juvenile, in connection with any juvenile offender proceeding including, but not limited to, fees for diversion, DNA sampling, or victims' penalty assessments.

**Sec.**  RCW 13.40.020 and 2021 c 328 s 5 and 2021 c 206 s 3 are each reenacted and amended to read as follows:

For the purposes of this chapter:

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

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

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

~~(a) A fine, not to exceed $500;~~

~~(b) Community~~)) community restitution not to exceed 150 hours of community restitution;

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

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

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of their term of confinement residing in the community, outside of department institutions and community facilities;

(b) The department supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race, ethnicity, sexual identity, and gender identity;

(7) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(10) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(11) "Department" means the department of children, youth, and families;

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

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

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

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

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

(17) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(18) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person 18 years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Physical restraint; or

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

(31) "Risk assessment tool" means the statistically valid tool used by the department to inform release or placement decisions related to security level, release within the sentencing range, community facility eligibility, community transition services eligibility, and parole. The "risk assessment tool" is used by the department to predict the likelihood of successful reentry and future criminal behavior;

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

(33) "Secretary" means the secretary of the department;

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

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

(36) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

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

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

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

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

(41) "Youth court" means a diversion unit under the supervision of the juvenile court.

**Sec.**  RCW 13.40.020 and 2021 c 328 s 5 are each amended to read as follows:

For the purposes of this chapter:

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

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

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

~~(a) A fine, not to exceed $500;~~

~~(b) Community~~)) community restitution not to exceed 150 hours of community restitution;

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

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

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(9) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(10) "Department" means the department of children, youth, and families;

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

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

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

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

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

(16) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(17) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person 18 years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Physical restraint; or

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

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

(31) "Secretary" means the secretary of the department;

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

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

(34) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

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

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

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

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

(39) "Youth court" means a diversion unit under the supervision of the juvenile court.

**Sec.**  RCW 13.40.162 and 2020 c 249 s 1 are each amended to read as follows:

(1) A juvenile offender is eligible for the special sex offender disposition alternative when:

(a) The offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and the offender has no history of a prior sex offense; or

(b) The offender is found to have committed assault in the fourth degree with sexual motivation, and the offender has no history of a prior sex offense.

(2) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The respondent's version of the facts and the official version of the facts;

(ii) The respondent's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The respondent's social, educational, and employment situation;

(v) Other evaluation measures used.

The report shall set forth the sources of the evaluator's information.

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

(i) The frequency and type of contact between the offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

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

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

(c) ((~~The~~)) For good cause shown, the court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. ((~~The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.~~))

(3) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least two years.

(4) As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to ((~~thirty~~)) 30 days of confinement and requirements that the offender do any one or more of the following:

(a) Devote time to a specific education, employment, or occupation;

(b) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(c) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(d) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(e) Report as directed to the court and a probation counselor;

(f) Pay ((~~all court-ordered legal financial obligations, perform~~)) restitution and perform community restitution, or any combination thereof;

(g) Make restitution to the victim for the cost of any counseling reasonably related to the offense; or

(h) Comply with the conditions of any court-ordered probation bond.

(5) If the court orders ((~~twenty-four~~)) 24 hour, continuous monitoring of the offender while on probation, the court shall include the basis for this condition in its findings.

(6)(a) The court must order the offender not to attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings.

(b) The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district.

(c) The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ((~~ten~~)) 10 calendar days after entry of the disposition.

(7) For offenders required to register under RCW 9A.44.130, at the end of the supervision ordered under this disposition alternative, there is a presumption that the offender is sufficiently rehabilitated to warrant removal from the central registry of sex offenders. The court shall relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal and may consider the following factors:

(a) The nature of the offense committed, including the number of victims and the length of the offense history;

(b) Any subsequent criminal history of the juvenile;

(c) The juvenile's compliance with supervision requirements;

(d) The length of time since the charged incident occurred;

(e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;

(f) The juvenile's participation in sex offender treatment;

(g) The juvenile's participation in other treatment and rehabilitative programs;

(h) The juvenile's stability in employment and housing;

(i) The juvenile's community and personal support system;

(j) Any risk assessments or evaluations prepared by a qualified professional related to the juvenile;

(k) Any updated polygraph examination completed by the juvenile;

(l) Any input of the victim; and

(m) Any other factors the court may consider relevant.

(8)(a) The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

(b) At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

(c) Except as provided in this subsection, examinations and treatment ordered pursuant to this subsection shall be conducted by qualified professionals as described under (d) of this subsection, certified sex offender treatment providers, or certified affiliate sex offender treatment providers under chapter 18.155 RCW.

(d) A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the therapist is a professional licensed under chapter 18.225 or 18.83 RCW and the treatment employed is evidence-based for sex offender treatment, or if the court finds that: (i) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (ii) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and (iii) the evaluation and treatment plan comply with this subsection and the rules adopted by the department of health.

(9)(a) If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to ((~~thirty~~)) 30 days confinement for violating conditions of the disposition.

(b) The court may order both execution of the disposition and up to ((~~thirty~~)) 30 days confinement for the violation of the conditions of the disposition.

(c) The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(10) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(11) The respondent or the parent, guardian, or other person having custody of the respondent shall not be required to pay the cost of any evaluation or treatment of the respondent ordered under this section.

(12) A disposition entered under this section is not appealable under RCW 13.40.230.

**Sec.**  RCW 13.40.165 and 2019 c 325 s 5007 are each amended to read as follows:

(1) The purpose of this disposition alternative is to ensure that successful treatment options to reduce recidivism are available to eligible youth, pursuant to RCW 71.24.615. It is also the purpose of the disposition alternative to assure that minors in need of substance use disorder, mental health, and/or co-occurring disorder treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and residential treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide these services to minors shall jointly plan and deliver these services. It is also the purpose of the disposition alternative to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment. The mental health, substance abuse, and co-occurring disorder treatment providers shall, to the extent possible, offer services that involve minors' parents, guardians, and family.

(2) The court must consider eligibility for the substance use disorder or mental health disposition alternative when a juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, other than a first time B+ offense under chapter 69.50 RCW. The court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent, substance abusing, or has significant mental health or co-occurring disorders may order an examination by a substance use disorder counselor from a substance use disorder treatment facility approved under chapter 70.96A RCW or a mental health professional as defined in chapter 71.34 RCW to determine if the youth is chemically dependent, substance abusing, or suffers from significant mental health or co-occurring disorders. ((~~The offender shall pay the cost of any examination ordered under this subsection unless the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.~~)) The state shall pay the cost of any examination ordered under this subsection unless third-party insurance coverage is available.

(3) The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of drug-alcohol problems, mental health diagnoses, previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

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

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

(b) Availability of appropriate treatment;

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

(d) Anticipated length of treatment; and

(e) Recommended crime-related prohibitions.

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

(6)(a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this disposition alternative is appropriate, then the court shall impose the standard range for the offense, or if the court concludes, and enters reasons for its conclusion, that such disposition would effectuate a manifest injustice, the court shall impose a disposition above the standard range as indicated in option D of RCW 13.40.0357 if the disposition is an increase from the standard range and the confinement of the offender does not exceed a maximum of ((~~fifty-two~~)) 52 weeks, suspend execution of the disposition, and place the offender on community supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol, mental health, or co-occurring disorder treatment and/or inpatient mental health or drug/alcohol treatment. The court shall only order inpatient treatment under this section if a funded bed is available. If the inpatient treatment is longer than ((~~ninety~~)) 90 days, the court shall hold a review hearing every ((~~thirty~~)) 30 days beyond the initial ((~~ninety~~)) 90 days. The respondent may appear telephonically at these review hearings if in compliance with treatment. As a condition of the suspended disposition, the court may impose conditions of community supervision and other sanctions, including up to ((~~thirty~~)) 30 days of confinement, ((~~one hundred fifty~~)) 150 hours of community restitution, and payment of ((~~legal financial obligations and~~)) restitution.

(7) The mental health/co-occurring disorder/drug/alcohol treatment provider shall submit monthly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

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

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

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

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

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

(11) A disposition under this section is not appealable under RCW 13.40.230.

(12) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health, substance use disorder, and/or co-occurring disorder evaluations, treatment, and costs of supervision required under this section shall be paid by the health care authority.

(13) A juvenile, or the parent, guardian, or other person having custody of the juvenile shall not be required to pay the cost of any evaluation or treatment ordered under this section.

**Sec.**  RCW 13.40.180 and 2012 c 177 s 3 are each amended to read as follows:

(1) Where a disposition in a single disposition order is imposed on a youth for two or more offenses, the terms shall run consecutively, subject to the following limitations:

(a) Where the offenses were committed through a single act or omission, omission, or through an act or omission which in itself constituted one of the offenses and also was an element of the other, the aggregate of all the terms shall not exceed ((~~one hundred fifty~~)) 150 percent of the term imposed for the most serious offense;

(b) The aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense; and

(c) The aggregate of all consecutive terms of community supervision shall not exceed two years in length, or require any payment of ((~~more than two hundred dollars in~~)) fines or the performance of more than ((~~two hundred~~)) 200 hours of community restitution.

(2) Where disposition in separate disposition orders is imposed on a youth, the periods of community supervision contained in separate orders, if any, shall run concurrently. All other terms contained in separate disposition orders shall run consecutively.

**Sec.**  RCW 13.40.192 and 2015 c 265 s 7 are each amended to read as follows:

(1) If a juvenile is ordered to pay ((~~legal financial obligations, including fines, penalty assessments, attorneys' fees, court costs, and~~)) restitution, the money judgment remains enforceable for a period of ((~~ten~~)) 10 years. When the juvenile reaches the age of ((~~eighteen~~)) 18 years or at the conclusion of juvenile court jurisdiction, whichever occurs later, the superior court clerk must docket the remaining balance of the juvenile's ((~~legal financial obligations~~)) restitution in the same manner as other judgments for the payment of money. The judgment remains valid and enforceable until ((~~ten~~)) 10 years from the date of its imposition. The clerk of the superior court may seek extension of the judgment for ((~~legal financial obligations, including crime victims' assessments,~~)) restitution in the same manner as RCW 6.17.020 for purposes of collection as allowed under RCW 36.18.190.

(2) A ((~~respondent under obligation to pay~~)) judgment against a juvenile for any legal financial obligation((~~s~~)) other than restitution((~~, the victim penalty assessment set forth in RCW 7.68.035, or the crime laboratory analysis fee set forth in RCW 43.43.690 may petition the court for modification or relief from those legal financial obligations and interest accrued on those obligations for good cause shown, including inability to pay. The court shall consider factors such as, but not limited to incarceration and a respondent's other debts, including restitution, when determining a respondent's ability to pay~~)) including, but not limited to, fines, penalty assessments, attorneys' fees, court costs, and other administrative fees, is not enforceable after the effective date of this section. The superior court clerk shall not accept payments from a respondent who was ordered to pay legal financial obligations, including fines, penalty assessments, attorneys' fees, and court costs after the effective date of this section.

**Sec.**  RCW 13.40.200 and 2004 c 120 s 7 are each amended to read as follows:

(1) When a respondent fails to comply with an order of restitution, community supervision, ((~~penalty assessments,~~)) or confinement of less than ((~~thirty~~)) 30 days, the court upon motion of the prosecutor or its own motion, may modify the order after a hearing on the violation.

(2) The hearing shall afford the respondent the same due process of law as would be afforded an adult probationer. The court may issue a summons or a warrant to compel the respondent's appearance. The state shall have the burden of proving by a preponderance of the evidence the fact of the violation. The respondent shall have the burden of showing that the violation was not a willful refusal to comply with the terms of the order. If a respondent has failed to pay ((~~a fine, penalty assessments, or~~)) restitution or to perform community restitution hours, as required by the court, it shall be the respondent's burden to show that he or she did not have the means and could not reasonably have acquired the means to pay the ((~~fine, penalty assessments, or~~)) restitution or to perform community restitution.

(3) If the court finds that a respondent has willfully violated the terms of an order pursuant to subsections (1) and (2) of this section, it may impose a penalty of up to ((~~thirty~~)) 30 days' confinement. Penalties for multiple violations occurring prior to the hearing shall not be aggregated to exceed ((~~thirty~~)) 30 days' confinement. Regardless of the number of times a respondent is brought to court for violations of the terms of a single disposition order, the combined total number of days spent by the respondent in detention shall never exceed the maximum term to which an adult could be sentenced for the underlying offense.

(4) ((~~If a respondent has been ordered to pay a fine or monetary penalty and due to a change of circumstance cannot reasonably comply with the order, the court, upon motion of the respondent, may order that the unpaid fine or monetary penalty be converted to community restitution unless the monetary penalty is the crime victim penalty assessment, which cannot be converted, waived, or otherwise modified, except for schedule of payment. The number of hours of community restitution in lieu of a monetary penalty or fine shall be converted at the rate of the prevailing state minimum wage per hour. The monetary penalties or fines collected shall be deposited in the county general fund. A failure to comply with an order under this subsection shall be deemed a failure to comply with an order of community supervision and may be proceeded against as provided in this section.~~

~~(5)~~)) When a respondent has willfully violated the terms of a probation bond, the court may modify, revoke, or retain the probation bond as provided in RCW 13.40.054.

NEW SECTION. **Sec.**  Nothing in this act requires a court to refund or reimburse amounts previously paid towards legal financial obligations, interests on legal financial obligations, or any other costs.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 13.40.056 (Nonrefundable bail fee) and 1995 c 395 s 9;

(2) RCW 13.40.085 (Diversion services costs—Fees—Payment by parent or legal guardian) and 1993 c 171 s 1;

(3) RCW 13.40.198 (Penalty assessments—Jurisdiction of court) and 2000 c 71 s 1; and

(4) RCW 13.40.640 (Youth court nonrefundable fee) and 2002 c 237 s 15.

NEW SECTION. **Sec.**  Section 15 of this act takes effect when section 3, chapter 206, Laws of 2021 takes effect.

NEW SECTION. **Sec.**  Section 16 of this act expires when section 15 of this act takes effect.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec.**  Except for section 15 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023."

**ESHB 1169** - S COMM AMD

By Committee on Ways & Means

**ADOPTED 04/12/2023**

On page 1, line 1 of the title, after "obligations;" strike the remainder of the title and insert "amending RCW 7.68.035, 43.43.7532, 43.43.7541, 7.68.240, 9.92.060, 9.94A.6333, 9.94B.040, 9.95.210, 10.01.180, 10.82.090, 13.40.020, 13.40.162, 13.40.165, 13.40.180, 13.40.192, and 13.40.200; reenacting and amending RCW 9.94A.760 and 13.40.020; adding a new section to chapter 7.68 RCW; adding a new section to chapter 13.40 RCW; creating new sections; repealing RCW 13.40.056, 13.40.085, 13.40.198, and 13.40.640; providing an effective date; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency."