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**HOUSE BILL 2186**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Senn, Taylor, Simmons, Reed, and Ormsby

AN ACT Relating to deferred adjudications for juveniles; and amending RCW 13.40.127.

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

**Sec.**  RCW 13.40.127 and 2016 c 136 s 3 are each amended to read as follows:

(1) A juvenile is eligible for a deferred ((~~disposition~~)) adjudication unless ((~~he or she~~)) the juvenile:

(a) Is charged with a sex or violent offense as defined in RCW 9.94A.030 other than robbery in the second degree;

(b) Has a criminal history which includes any felony adjudication; or

(c) ((~~Has a~~)) On the date of the alleged offense, had two prior deferred dispositions or deferred ((~~adjudication; or~~

~~(d) Has two or more~~)) adjudications, except that multiple prior deferred adjudications entered on the same date count as one prior deferred adjudication for purposes of eligibility for an additional deferred adjudication.

(2) The juvenile court may, upon motion at least ((~~fourteen~~)) 14 days before commencement of trial and, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, continue the case for adjudication and disposition for a period not to exceed one year from the date the ((~~juvenile is found guilty~~)) deferred adjudication is entered. ((~~In all cases where the juvenile is eligible for a deferred disposition, there shall be a strong presumption that the deferred disposition will be granted.~~)) The court may waive the ((~~fourteen-day~~)) 14-day period anytime before the commencement of trial for good cause.

(a) Except as provided in (b) of this subsection, in cases where the juvenile is eligible for a deferred adjudication, there shall be a strong presumption that a juvenile's deferred adjudication will be granted.

(b) For cases involving charges of robbery in the second degree and where the juvenile has a prior deferred adjudication, there is no presumption that the juvenile's deferred adjudication will be granted and the court has discretion in determining whether to grant a deferred adjudication.

(3) Any juvenile who agrees to a deferral of ((~~disposition~~)) adjudication shall, in the event that the deferred adjudication is revoked:

(a) Stipulate to the admissibility of the facts ((~~contained in~~)) as agreed to by the parties or to the admissibility of the written police report;

(b) Acknowledge that the written police report, although it has not been admitted as evidence, or the stipulated facts agreed to by the parties will be entered and may be used to support a finding of guilt and to impose a disposition if the juvenile fails to comply with terms of supervision;

(c) Waive the following rights to: (i) A speedy trial; (ii) a speedy disposition; ((~~and (ii)~~)) (iii) call and confront witnesses; and (iv) contest the admissibility of any evidence presented; and

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

The adjudicatory hearing shall be limited to the admission of evidence and a reading of the court's record.

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

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

(a) The court may require a juvenile ((~~offender convicted of~~)) granted a deferred adjudication for animal cruelty in the first degree to submit to a mental health evaluation to determine if the ((~~offender~~)) juvenile would benefit from treatment and such intervention would promote the safety of the community. After consideration of the results of the evaluation, as a condition of community supervision, the court may order the ((~~offender~~)) juvenile to attend treatment to address issues pertinent to the offense.

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

(c) The court shall require a juvenile granted a deferral of ((~~disposition~~)) adjudication for unlawful possession of a firearm in violation of RCW 9.41.040 to participate in a qualifying program as described in RCW 13.40.193(2)(b), when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

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

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

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

(i) Revoke the deferred ((~~disposition~~)) adjudication and review any admissible written police reports or the factual stipulation agreed to by the parties under subsection (3)(a) of this section to determine whether to enter a finding of guilt. If the court enters a finding of guilt, the court will then enter an order of disposition; or

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

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

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

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

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

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

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

(b) If the court finds the juvenile is entitled to dismissal of the deferred ((~~disposition~~)) adjudication pursuant to (a) of this subsection, ((~~the juvenile's conviction shall be vacated and~~)) the court shall dismiss the case with prejudice((~~, except that a conviction under RCW 16.52.205 shall not be vacated~~)). Whenever a case is dismissed with restitution still owing, the court shall enter a restitution order pursuant to RCW 7.80.130 for any unpaid restitution. Jurisdiction to enforce payment and modify terms of the restitution order shall be the same as those set forth in RCW 7.80.130.

(c) If the court finds the juvenile is not entitled to dismissal of the deferred ((~~disposition~~)) adjudication pursuant to (a) of this subsection, the court shall revoke the deferred ((~~disposition~~)) adjudication and review any admissible written police reports or the factual stipulation agreed to by the parties under subsection (3)(a) of this section to determine whether to enter a finding of guilt. If a guilty finding is entered, the court will then enter an order of disposition. ((~~A deferred disposition shall remain a conviction unless the case is dismissed and the conviction is vacated pursuant to (b) of this subsection or sealed pursuant to RCW 13.50.260.~~))

(10)(a)(i) Any time the court ((~~vacates a conviction~~)) dismisses a charge pursuant to subsection (9) of this section, if the juvenile is ((~~eighteen~~)) 18 years of age or older and the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW has been paid, the court shall enter a written order sealing the case.

(ii) Any time the court ((~~vacates a conviction~~)) dismisses a charge pursuant to subsection (9) of this section, if the juvenile is not ((~~eighteen~~)) 18 years of age or older and full restitution ordered has been paid, the court shall schedule an administrative sealing hearing to take place no later than ((~~thirty~~)) 30 days after the respondent's ((~~eighteenth~~)) 18th birthday, at which time the court shall enter a written order sealing the case. The respondent's presence at the administrative sealing hearing is not required.

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

(b) Nothing in this subsection shall preclude a juvenile from petitioning the court to have the records of his or her deferred dispositions or adjudications sealed under RCW 13.50.260.

(c) Records sealed under this provision shall have the same legal status as records sealed under RCW 13.50.260.

(11) A deferred adjudication under this section does not constitute an adjudication or admission of guilt for any purpose unless the deferred adjudication is revoked and a finding of guilt is entered**.**

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