
HOUSE BILL 2186

State of Washington

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

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

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

4 **Sec. 1.** RCW 13.40.127 and 2016 c 136 s 3 are each amended to
5 read as follows:

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

8 (a) Is charged with a sex or violent offense as defined in RCW
9 9.94A.030 other than robbery in the second degree;

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

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

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

18 (2) The juvenile court may, upon motion at least (~~((fourteen))~~) 14
19 days before commencement of trial and, after consulting the
20 juvenile's custodial parent or parents or guardian and with the
21 consent of the juvenile, continue the case for adjudication and

1 disposition for a period not to exceed one year from the date the
2 ~~((juvenile is found guilty))~~ deferred adjudication is entered. ~~((In~~
3 ~~all cases where the juvenile is eligible for a deferred disposition,~~
4 ~~there shall be a strong presumption that the deferred disposition~~
5 ~~will be granted.))~~ The court may waive the ~~((fourteen-day))~~ 14-day
6 period anytime before the commencement of trial for good cause.

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

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

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

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

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

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

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

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

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

38 (5) Any juvenile granted a deferral of ~~((disposition))~~
39 adjudication under this section shall be placed under community
40 supervision. The court may impose any conditions of supervision that

1 it deems appropriate including posting a probation bond. Payment of
2 restitution under RCW 13.40.190 shall be a condition of community
3 supervision under this section.

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

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

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

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

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

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

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

7 (ii) Impose sanctions for the violation pursuant to RCW
8 13.40.200.

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

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

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

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

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

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

23 (b) If the court finds the juvenile is entitled to dismissal of
24 the deferred (~~(disposition)~~) adjudication pursuant to (a) of this
25 subsection, (~~(the juvenile's conviction shall be vacated and)~~) the
26 court shall dismiss the case with prejudice(~~(, except that a~~
27 ~~conviction under RCW 16.52.205 shall not be vacated)~~). Whenever a
28 case is dismissed with restitution still owing, the court shall enter
29 a restitution order pursuant to RCW 7.80.130 for any unpaid
30 restitution. Jurisdiction to enforce payment and modify terms of the
31 restitution order shall be the same as those set forth in RCW
32 7.80.130.

33 (c) If the court finds the juvenile is not entitled to dismissal
34 of the deferred (~~(disposition)~~) adjudication pursuant to (a) of this
35 subsection, the court shall revoke the deferred (~~(disposition)~~)
36 adjudication and review any admissible written police reports or the
37 factual stipulation agreed to by the parties under subsection (3)(a)
38 of this section to determine whether to enter a finding of guilt. If
39 a guilty finding is entered, the court will then enter an order of
40 disposition. (~~(A deferred disposition shall remain a conviction~~

1 ~~unless the case is dismissed and the conviction is vacated pursuant~~
2 ~~to (b) of this subsection or sealed pursuant to RCW 13.50.260.)~~

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

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

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

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

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

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

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