

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2217

68th Legislature
2024 Regular Session

Passed by the House February 9, 2024
Yeas 54 Nays 43

**Speaker of the House of
Representatives**

Passed by the Senate February 28,
2024
Yeas 29 Nays 20

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2217** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2217

Passed Legislature - 2024 Regular Session

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

By House Human Services, Youth, & Early Learning (originally sponsored by Representatives Cortes, Senn, Santos, Ormsby, Reed, Fosse, Doglio, and Pollet)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to authority over individuals found guilty of or
2 accused of criminal offenses that occurred when the individual was
3 under age 18; amending RCW 13.40.300, 13.40.110, 13.04.030, and
4 13.40.020; and creating a new section.

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

6 **Sec. 1.** RCW 13.40.300 and 2019 c 322 s 3 are each amended to
7 read as follows:

8 (1) Except as provided in (a) through (c) of this subsection
9 ~~((2) of this section)),~~ a juvenile offender may not be committed by
10 the juvenile court to the department ~~((of children, youth, and~~
11 ~~families))~~ for placement in a juvenile rehabilitation facility beyond
12 the juvenile offender's ~~((twenty-first))~~ 21st birthday.

13 ~~((2))~~ (a) A juvenile offender adjudicated of an A++ juvenile
14 disposition category offense listed in RCW 13.40.0357, or found to be
15 armed with a firearm and sentenced to an additional ~~((twelve))~~ 12
16 months pursuant to RCW 13.40.193(3)(b), may be committed by the
17 juvenile court to the department ~~((of children, youth, and families))~~
18 for placement in a juvenile rehabilitation facility up to the
19 juvenile offender's ~~((twenty-fifth))~~ 25th birthday, but not beyond.

20 ~~((3) A juvenile may be under the jurisdiction of the juvenile~~
21 ~~court or the authority of the department of children, youth, and~~

1 families beyond the juvenile's eighteenth birthday only if prior to
2 the juvenile's eighteenth birthday:

3 (a) Proceedings are pending seeking the adjudication of a
4 juvenile offense and the court by written order setting forth its
5 reasons extends jurisdiction of juvenile court over the juvenile
6 beyond his or her eighteenth birthday, except:

7 (i) If the court enters a written order extending jurisdiction
8 under this subsection, it shall not extend jurisdiction beyond the
9 juvenile's twenty-first birthday;

10 (ii) If the order fails to specify a specific date, it shall be
11 presumed that jurisdiction is extended to age twenty-one; and

12 (iii) If the juvenile court previously extended jurisdiction
13 beyond the juvenile's eighteenth birthday, and that period of
14 extension has not expired, the court may further extend jurisdiction
15 by written order setting forth its reasons;

16 (b) The juvenile has been found guilty after a fact finding or
17 after a plea of guilty and an automatic extension is necessary to
18 allow for the imposition of disposition;

19 (c) Disposition has been held and an automatic extension is
20 necessary to allow for the execution and enforcement of the court's
21 order of disposition, subject to the following:

22 (i) If an order of disposition imposes commitment to the
23 department, then jurisdiction is automatically extended to include a
24 period of up to twelve months of parole, in no case extending beyond
25 the offender's twenty-first birthday, except;

26 (ii)) (b) A juvenile offender adjudicated of a murder in the
27 first or second degree offense committed at age 14 or older or a
28 juvenile offender adjudicated of a rape in the first degree offense
29 committed at age 15 or older may be committed by the juvenile court
30 to the department for placement in a juvenile rehabilitation facility
31 up to the juvenile offender's 23rd birthday, but not beyond.

32 (c) A juvenile offender who is 18 or older at the time of the
33 adjudication may be committed by the juvenile court to the department
34 for placement in a juvenile rehabilitation facility up to the
35 juvenile offender's 23rd birthday, but not beyond, in order to serve
36 a standard range disposition.

37 (2) (a) The juvenile court has jurisdiction over, and may place an
38 individual under the authority of the department in the following
39 circumstances:

1 (i) Except as provided under RCW 13.04.030 and 13.40.110, when
2 the individual is under the age of 21 at the time of the filing of
3 the information and is accused of committing a criminal offense that
4 occurred when the individual was under the age of 18; or

5 (ii) If proceedings are pending in a case in which jurisdiction
6 is vested in the adult criminal court pursuant to RCW 13.04.030 and
7 an automatic extension is required because either:

8 (A) The individual is found not guilty of the charge for which he
9 or she was transferred, or is convicted in the adult criminal court
10 of an offense that is not also an offense listed in RCW
11 13.04.030(1)(e)(v), and the matter is transferred to juvenile court
12 pursuant to RCW 13.04.030(1)(e)(v)(C)(II); or

13 (B) The parties agree to juvenile court jurisdiction with the
14 court's approval pursuant to RCW 13.04.030(1)(e)(v)(C)(III).

15 (b) Upon a finding of guilt in juvenile court, the juvenile court
16 maintains jurisdiction to allow for imposition, execution, and
17 enforcement of the court's order of disposition, subject to the
18 limitations in this section.

19 (3) If an order of disposition imposes a commitment to the
20 department for a juvenile offender ((adjudicated)):

21 (a) Adjudicated of an A++ juvenile disposition category offense
22 listed in RCW 13.40.0357, adjudicated of a murder in the first or
23 second degree offense committed at age 14 or older, or found to be
24 armed with a firearm and sentenced to an additional ((twelve)) 12
25 months pursuant to RCW 13.40.193(3)(b), then jurisdiction for parole
26 is automatically extended to include a period of up to ((twenty-
27 four)) 24 months of parole, in no case extending beyond the
28 offender's ((twenty-fifth)) 25th birthday; or

29 (b) Adjudicated of a rape in the first degree offense committed
30 at age 15 or older, then jurisdiction for parole is automatically
31 extended to include a period of no less than 24 months and no more
32 than 36 months of parole, in no case extending beyond the offender's
33 25th birthday.

34 ~~((d) While proceedings are pending in a case in which~~
35 ~~jurisdiction is vested in the adult criminal court pursuant to RCW~~
36 ~~13.04.030, the juvenile turns eighteen years of age and is~~
37 ~~subsequently found not guilty of the charge for which he or she was~~
38 ~~transferred, or is convicted in the adult criminal court of an~~
39 ~~offense that is not also an offense listed in RCW 13.04.030(1)(e)(v),~~

1 and an automatic extension is necessary to impose the juvenile
2 disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

3 ~~(e))~~ (4) Pursuant to the terms of RCW 13.40.190 (~~and~~
4 ~~13.40.198~~), the juvenile court maintains jurisdiction beyond the
5 juvenile offender's (~~twenty-first~~) 21st birthday for the purpose of
6 enforcing an order of restitution or penalty assessment.

7 ~~((4))~~ (5) Except as otherwise provided herein, in no event may
8 the juvenile court have authority to extend jurisdiction over any
9 juvenile offender beyond the juvenile offender's (~~twenty-first~~)
10 21st birthday.

11 ~~((5))~~ (6) Notwithstanding any extension of jurisdiction over a
12 person pursuant to this section, the juvenile court has no
13 jurisdiction over any offenses alleged to have been committed by a
14 person (~~eighteen~~) 18 years of age or older.

15 **Sec. 2.** RCW 13.40.110 and 2019 c 322 s 10 are each amended to
16 read as follows:

17 (1) Discretionary decline hearing - The prosecutor, respondent,
18 or the court on its own motion may, before a hearing on the
19 information on its merits, file a motion requesting the court to
20 transfer the respondent for adult criminal prosecution and the matter
21 shall be set for a hearing on the question of declining jurisdiction
22 only if:

23 (a) The respondent (~~is~~) was, at the time of (~~proceedings~~) the
24 alleged offense, at least (~~fifteen~~) 15 years of age or older and is
25 charged with a serious violent offense as defined in RCW 9.94A.030;

26 (b) The respondent (~~is~~) was, at the time of (~~proceedings~~) the
27 alleged offense, (~~fourteen~~) 14 years of age or younger and is
28 charged with murder in the first degree (RCW 9A.32.030), and/or
29 murder in the second degree (RCW 9A.32.050); or

30 (c) The respondent is any age and is charged with custodial
31 assault, RCW 9A.36.100, and, at the time the respondent is charged,
32 is already serving a minimum juvenile sentence to age (~~twenty-one~~)
33 21.

34 (2) Mandatory decline hearing - Unless waived by the court, the
35 parties, and their counsel, a decline hearing shall be held when the
36 information alleges an escape by the respondent and the respondent is
37 serving a minimum juvenile sentence to age (~~twenty-one~~) 21.

38 (3) The court after a decline hearing may order the case
39 transferred for adult criminal prosecution upon a finding that the

1 declination would be in the best interest of the juvenile or the
2 public. The court shall consider the relevant reports, facts,
3 opinions, and arguments presented by the parties and their counsel.

4 (4) When the respondent is transferred for criminal prosecution
5 or retained for prosecution in juvenile court, the court shall set
6 forth in writing its finding which shall be supported by relevant
7 facts and opinions produced at the hearing.

8 **Sec. 3.** RCW 13.04.030 and 2022 c 243 s 2 are each amended to
9 read as follows:

10 (1) Except as provided in this section, the juvenile courts in
11 this state shall have exclusive original jurisdiction over all
12 proceedings:

13 (a) Under the interstate compact on placement of children as
14 provided in chapter 26.34 RCW;

15 (b) Relating to children alleged or found to be dependent as
16 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

17 (c) Relating to the termination of a parent and child
18 relationship as provided in RCW 13.34.180 through 13.34.210;

19 (d) To approve or disapprove out-of-home placement as provided in
20 RCW 13.32A.170;

21 (e) Relating to juveniles alleged or found to have committed
22 offenses, traffic or civil infractions, or violations as provided in
23 RCW 13.40.020 through 13.40.230, unless:

24 (i) The juvenile court transfers jurisdiction of a particular
25 juvenile to adult criminal court pursuant to RCW 13.40.110;

26 (ii) The statute of limitations applicable to adult prosecution
27 for the offense, traffic or civil infraction, or violation has
28 expired;

29 (iii) The alleged offense or infraction is a traffic, fish,
30 boating, or game offense, or traffic or civil infraction committed by
31 a juvenile (~~sixteen~~) 16 years of age or older and would, if
32 committed by an adult, be tried or heard in a court of limited
33 jurisdiction, in which instance the appropriate court of limited
34 jurisdiction shall have jurisdiction over the alleged offense or
35 infraction, and no guardian ad litem is required in any such
36 proceeding due to the juvenile's age. If such an alleged offense or
37 infraction and an alleged offense or infraction subject to juvenile
38 court jurisdiction arise out of the same event or incident, the
39 juvenile court may have jurisdiction of both matters. The

1 jurisdiction under this subsection does not constitute "transfer" or
2 a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of
3 this subsection. Courts of limited jurisdiction which confine
4 juveniles for an alleged offense or infraction may place juveniles in
5 juvenile detention facilities under an agreement with the officials
6 responsible for the administration of the juvenile detention facility
7 in RCW 13.04.035 and 13.20.060;

8 (iv) The alleged offense is a traffic or civil infraction, a
9 violation of compulsory school attendance provisions under chapter
10 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
11 has assumed concurrent jurisdiction over those offenses as provided
12 in RCW 13.04.0301; or

13 (v) The juvenile is (~~sixteen~~) 16 or (~~seventeen~~) 17 years old
14 on the date the alleged offense is committed and the alleged offense
15 is:

16 (A) A serious violent offense as defined in RCW 9.94A.030;

17 (B) A violent offense as defined in RCW 9.94A.030 and the
18 juvenile has a criminal history consisting of: One or more prior
19 serious violent offenses; two or more prior violent offenses; or
20 three or more of any combination of the following offenses: Any class
21 A felony, any class B felony, vehicular assault, or manslaughter in
22 the second degree, all of which must have been committed after the
23 juvenile's (~~thirteenth~~) 13th birthday and prosecuted separately; or

24 (C) Rape of a child in the first degree.

25 (I) In such a case the adult criminal court shall have exclusive
26 original jurisdiction, except as provided in (e)(v)(C)(II) and (III)
27 of this subsection.

28 (II) The juvenile court shall have exclusive jurisdiction over
29 the disposition of any remaining charges in any case in which the
30 juvenile is found not guilty in the adult criminal court of the
31 charge or charges for which he or she was transferred, or is
32 convicted in the adult criminal court of an offense that is not also
33 an offense listed in (e)(v) of this subsection. The juvenile court
34 shall maintain residual juvenile court jurisdiction up to age
35 (~~twenty-five~~) 25 if the juvenile has turned (~~eighteen~~) 18 years
36 of age during the adult criminal court proceedings but only for the
37 purpose of returning a case to juvenile court for disposition
38 pursuant to RCW 13.40.300(~~(-3)-(d))~~) (2)(a)(ii).

39 (III) The prosecutor and respondent may agree to juvenile court
40 jurisdiction and waive application of exclusive adult criminal

1 jurisdiction in (e)(v)(A) through (C) of this subsection and remove
2 the proceeding back to juvenile court with the court's approval.

3 If the juvenile challenges the state's determination of the
4 juvenile's criminal history under (e)(v) of this subsection, the
5 state may establish the offender's criminal history by a
6 preponderance of the evidence. If the criminal history consists of
7 adjudications entered upon a plea of guilty, the state shall not bear
8 a burden of establishing the knowing and voluntariness of the plea;

9 (f) Under the interstate compact on juveniles as provided in
10 chapter 13.24 RCW;

11 (g) Relating to termination of a diversion agreement under RCW
12 13.40.080, including a proceeding in which the divertee has attained
13 (~~eighteen~~) 18 years of age;

14 (h) Relating to court validation of a voluntary consent to an
15 out-of-home placement under chapter 13.34 RCW, by the parent or
16 Indian custodian of an Indian child, except if the parent or Indian
17 custodian and child are residents of or domiciled within the
18 boundaries of a federally recognized Indian reservation over which
19 the tribe exercises exclusive jurisdiction; and

20 (i) Relating to petitions to compel disclosure of information
21 filed by the department of social and health services pursuant to RCW
22 74.13.042.

23 (2) The family court shall have concurrent original jurisdiction
24 with the juvenile court over all proceedings under this section if
25 the superior court judges of a county authorize concurrent
26 jurisdiction as provided in RCW 26.12.010.

27 (3) The juvenile court shall have concurrent original
28 jurisdiction with the family or probate court over minor guardianship
29 proceedings under chapter 11.130 RCW and parenting plans or
30 residential schedules under chapter 26.09, 26.26A, or 26.26B RCW as
31 provided for in RCW 13.34.155.

32 (4) A juvenile subject to adult superior court jurisdiction under
33 subsection (1)(e)(i) through (v) of this section, who is detained
34 pending trial, may be detained in a detention facility as defined in
35 RCW 13.40.020 pending sentencing or a dismissal.

36 **Sec. 4.** RCW 13.40.020 and 2023 c 449 s 15 are each amended to
37 read as follows:

38 For the purposes of this chapter:

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

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

19 (3) "Community-based sanctions" may include community restitution
20 not to exceed 150 hours of community restitution;

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

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

39 (a) Community-based sanctions;

40 (b) Community-based rehabilitation;

1 (c) Monitoring and reporting requirements;

2 (d) Posting of a probation bond;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (18) "Juvenile offender" means any juvenile who has been found by
37 the juvenile court to have committed an offense, including a person
38 18 years of age or older over whom (~~jurisdiction has been extended~~)
39 the juvenile court has jurisdiction under RCW 13.40.300;

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

4 (20) "Local sanctions" means one or more of the following: (a)
5 0-30 days of confinement; (b) 0-12 months of community supervision;
6 or (c) 0-150 hours of community restitution;

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (a) Physical restraint; or

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

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

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

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

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

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

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

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

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

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

32 (40) "Violent offense" means a violent offense as defined in RCW
33 9.94A.030;

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

36 NEW SECTION. **Sec. 5.** (1) The amendments in RCW 13.40.300 (1)(c)
37 in this act apply to all charges that are filed on or after the
38 effective date of this section regardless of whether the charges are

1 based on conduct that occurred before or after the effective date of
2 this section.

3 (2) The amendments in RCW 13.40.300(2) and 13.40.110 in this act
4 apply to all cases in which charges are pending on the effective date
5 of this section and to all cases in which charges are filed on or
6 after the effective date of this section, regardless of whether the
7 charges are based on conduct that occurred before or after the
8 effective date of this section.

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