

2 2SSB 5491 - S AMD - 205

3 By Senator Pelz

4 ADOPTED 3/14/95

5 On page 21, after line 21, insert the following:

6 "Sec. 7. RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,
7 & 1994 c 261 s 18 are each reenacted and amended to read as follows:

8 For the purposes of this chapter:

9 (1) "Serious offender" means a person fifteen years of age or older
10 who has committed an offense which if committed by an adult would be:

11 (a) A class A felony, or an attempt to commit a class A felony;

12 (b) Manslaughter in the first degree; or

13 (c) Assault in the second degree, extortion in the first degree,
14 child molestation in the second degree, kidnapping in the second
15 degree, robbery in the second degree, residential burglary, or burglary
16 in the second degree, where such offenses include the infliction of
17 bodily harm upon another or where during the commission of or immediate
18 withdrawal from such an offense the perpetrator is armed with a deadly
19 weapon;

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

25 (3) "Community supervision" means an order of disposition by the
26 court of an adjudicated youth not committed to the department or an
27 order granting a deferred adjudication pursuant to RCW 13.40.125. A
28 community supervision order for a single offense may be for a period of
29 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
30 one year for other offenses. As a mandatory condition of any term of
31 community supervision, the court shall order the juvenile to refrain
32 from committing new offenses. As a mandatory condition of community
33 supervision, the court shall order the juvenile to comply with the
34 mandatory school attendance provisions of chapter 28A.225 RCW and to
35 inform the school of the existence of this requirement. Community
36 supervision is an individualized program comprised of one or more of

1 the following:

2 (a) Community-based sanctions;

3 (b) Community-based rehabilitation;

4 (c) Monitoring and reporting requirements;

5 (d) Home detention;

6 (4) Community-based sanctions may include one or more of the
7 following:

8 (a) A fine, not to exceed one hundred dollars;

9 (b) Community service not to exceed one hundred fifty hours of
10 service;

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

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

27 (7) "Confinement" means physical custody by the department of
28 social and health services in a facility operated by or pursuant to a
29 contract with the state, or physical custody in a detention facility
30 operated by or pursuant to a contract with any county. The county may
31 operate or contract with vendors to operate county detention
32 facilities. The department may operate or contract to operate
33 detention facilities for juveniles committed to the department.
34 Pretrial confinement or confinement of less than thirty-one days
35 imposed as part of a disposition or modification order may be served
36 consecutively or intermittently, in the discretion of the court;

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

39 (9) "Criminal history" includes all criminal complaints against the

1 respondent for which, prior to the commission of a current offense:

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

6 (b) The criminal complaint was diverted by a prosecutor pursuant to
7 the provisions of this chapter on agreement of the respondent and after
8 an advisement to the respondent that the criminal complaint would be
9 considered as part of the respondent's criminal history. A
10 successfully completed deferred adjudication shall not be considered
11 part of the respondent's criminal history;

12 (10) "Department" means the department of social and health
13 services;

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

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

37 (13) "Home detention" means a program of partial confinement in
38 which an adjudicated youth not committed to the department or a
39 juvenile granted a deferral of adjudication is confined in a private

1 residence subject to electronic surveillance. Participation in home
2 detention shall include attending a regular course of school study at
3 regularly defined hours or maintaining current employment;

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

6 ~~((14))~~ (15) "Juvenile," "youth," and "child" mean any individual
7 who is under the chronological age of eighteen years and who has not
8 been previously transferred to adult court pursuant to RCW 13.40.110 or
9 who is otherwise under adult court jurisdiction;

10 ~~((15))~~ (16) "Juvenile offender" means any juvenile who has been
11 found by the juvenile court to have committed an offense, including a
12 person eighteen years of age or older over whom jurisdiction has been
13 extended under RCW 13.40.300;

14 ~~((16))~~ (17) "Manifest injustice" means a disposition that would
15 either impose an excessive penalty on the juvenile or would impose a
16 serious, and clear danger to society in light of the purposes of this
17 chapter;

18 ~~((17))~~ (18) "Middle offender" means a person who has committed an
19 offense and who is neither a minor or first offender nor a serious
20 offender;

21 ~~((18))~~ (19) "Minor or first offender" means a person whose
22 current offense(s) and criminal history fall entirely within one of the
23 following categories:

- 24 (a) Four misdemeanors;
- 25 (b) Two misdemeanors and one gross misdemeanor;
- 26 (c) One misdemeanor and two gross misdemeanors; and
- 27 (d) Three gross misdemeanors.

28 For purposes of this definition, current violations shall be
29 counted as misdemeanors;

30 ~~((19))~~ (20) "Offense" means an act designated a violation or a
31 crime if committed by an adult under the law of this state, under any
32 ordinance of any city or county of this state, under any federal law,
33 or under the law of another state if the act occurred in that state;

34 ~~((20))~~ (21) "Respondent" means a juvenile who is alleged or
35 proven to have committed an offense;

36 ~~((21))~~ (22) "Restitution" means financial reimbursement by the
37 offender to the victim, and shall be limited to easily ascertainable
38 damages for injury to or loss of property, actual expenses incurred for
39 medical treatment for physical injury to persons, lost wages resulting

1 from physical injury, and costs of the victim's counseling reasonably
2 related to the offense if the offense is a sex offense. Restitution
3 shall not include reimbursement for damages for mental anguish, pain
4 and suffering, or other intangible losses. Nothing in this chapter
5 shall limit or replace civil remedies or defenses available to the
6 victim or offender;

7 ~~((22))~~ (23) "Secretary" means the secretary of the department of
8 social and health services. "Assistant secretary" means the assistant
9 secretary for juvenile rehabilitation for the department;

10 ~~((23))~~ (24) "Services" mean services which provide alternatives
11 to incarceration for those juveniles who have pleaded or been
12 adjudicated guilty of an offense or have signed a diversion agreement
13 pursuant to this chapter;

14 ~~((24))~~ (25) "Sex offense" means an offense defined as a sex
15 offense in RCW 9.94A.030;

16 ~~((25))~~ (26) "Sexual motivation" means that one of the purposes
17 for which the respondent committed the offense was for the purpose of
18 his or her sexual gratification;

19 ~~((26))~~ (27) "Foster care" means temporary physical care in a
20 foster family home or group care facility as defined in RCW 74.15.020
21 and licensed by the department, or other legally authorized care;

22 ~~((27))~~ (28) "Violation" means an act or omission, which if
23 committed by an adult, must be proven beyond a reasonable doubt, and is
24 punishable by sanctions which do not include incarceration;

25 ~~((28))~~ (29) "Violent offense" means a violent offense as defined
26 in RCW 9.94A.030."

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30 On page 1, line 4 of the title, after "13.40.060;" insert
31 "reenacting and amending RCW 13.40.020;"

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