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HOUSE BILL 2296

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State of Washington

53rd Legislature

1994 Regular Session

By Representatives Cooke, Chandler, Horn, Dyer, Lisk, Padden, Johanson, Quall and Morris

Read first time 01/12/94. Referred to Committee on Judiciary.

1 AN ACT Relating to parental liability for juvenile offenders;  
2 amending RCW 13.40.085, 13.40.220, 13.16.085, 13.40.190, and 13.40.200;  
3 adding a new section to chapter 4.24 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW  
6 to read as follows:

7 (1) The parent or parents or legal guardian, having custody of an  
8 unemancipated minor who is adjudicated of an offense pursuant to  
9 chapter 13.40 RCW in which the court enters a finding under RCW  
10 13.40.190(2) that restitution is owed to the victim, is liable to the  
11 victim for any amount of restitution owed to the victim. The parent or  
12 legal guardian is liable for the full amount of restitution due even if  
13 the court, under RCW 13.40.190(1), does not order the juvenile to pay  
14 all or any of the restitution due. Any restitution collected from the  
15 juvenile offender or other participants jointly or severally liable for  
16 the payment of restitution shall be attributed to a judgment amount  
17 obtained under this section.

1 (2) This section supplements and does not supersede or replace  
2 other remedies available under common law or other statutes which  
3 govern parental liability for their children's actions.

4 (3) For purposes of this section, liability shall not be imposed  
5 upon any governmental entity, private agency, or foster parent assigned  
6 responsibility for the minor pursuant to a court order or action of the  
7 department of social and health services.

8 **Sec. 2.** RCW 13.40.085 and 1993 c 171 s 1 are each amended to read  
9 as follows:

10 (1) The county legislative authority may authorize juvenile court  
11 administrators to establish fees to cover the costs of the  
12 administration and operation of diversion services provided under this  
13 chapter. The parent or legal guardian of a juvenile who receives  
14 diversion services must pay for the services based on the parent's or  
15 guardian's ability to pay. The juvenile court administrators shall  
16 develop a fair and equitable payment schedule. No juvenile who is  
17 eligible for diversion as provided in this chapter may be denied  
18 diversion services based on an inability to pay for the services.

19 (2) If a parent or legal guardian who is ordered to pay for  
20 diversion services under subsection (1) of this section fails to pay  
21 all or part of the ordered amount, the county may obtain a civil  
22 judgment against the parent or guardian and may enforce the judgment as  
23 in other civil actions.

24 **Sec. 3.** RCW 13.40.220 and 1993 c 466 s 1 are each amended to read  
25 as follows:

26 (1)(a) Whenever legal custody of a child is vested in someone other  
27 than his or her parents, after due notice to the parents or other  
28 persons legally obligated to care for and support the child, and after  
29 a hearing, the court may order and decree that the parent or other  
30 legally obligated person shall pay in such a manner as the court may  
31 direct a reasonable sum representing in whole or in part the costs of  
32 support, treatment, and confinement of the child after the decree is  
33 entered.

34 (b) If the parent or other legally obligated person ordered to pay  
35 for the certain costs pursuant to (a) of this subsection fails to pay  
36 all or part of the ordered amount, the person or entity entitled to

1 payment may obtain a civil judgment against the parent or legally  
2 obligated person and may enforce the judgment as in other civil cases.

3 (2) Whenever legal custody of a child is vested in the department  
4 of social and health services, after due notice to the parents or other  
5 persons legally obligated to care for and support the child, and after  
6 a hearing, the court shall order and decree that the parent or other  
7 legally obligated person shall pay for support, treatment, and  
8 confinement of the child after the decree is entered, following the  
9 department of social and health services reimbursement of cost  
10 schedule. The department of social and health services shall collect  
11 the debt in accordance with chapter 43.20B RCW. The department shall  
12 exempt from payment parents receiving adoption support under RCW  
13 74.13.100 through 74.13.145, and parents eligible to receive adoption  
14 support under RCW 74.13.150.

15 (3) If the parent or other legally obligated person willfully fails  
16 or refuses to pay such sum, the court may proceed against such person  
17 for contempt.

18 **Sec. 4.** RCW 13.16.085 and 1955 c 369 s 1 are each amended to read  
19 as follows:

20 In any case in which a child under eighteen years of age has been  
21 placed in any detention facility under the jurisdiction of the juvenile  
22 court, the court may inquire into the facts concerning the necessity or  
23 propriety of such child's detention notwithstanding the fact that such  
24 child may not have been found to be either a dependent or a delinquent  
25 child.

26 The court may, either in the proceedings involving the question of  
27 dependency or delinquency of such child or in a separate proceeding,  
28 upon the parent or parents, guardian, or other person having custody of  
29 said child being duly summoned or voluntarily appearing, proceed to  
30 inquire into the necessity or propriety of such detention and into the  
31 ability of such person or persons to pay the cost of such detention.

32 If the court finds that such detention was necessary or proper for  
33 the welfare of the child or for the protection of the community, and if  
34 the court also finds the parent or parents, guardian, or other person  
35 having the custody of such child able to pay or contribute to the  
36 payment of the cost of such detention, the court may enter such order  
37 or decree as shall be equitable in the premises, and may enforce the

1 same by execution or in any way a court of equity may enforce its  
2 decrees.

3 If a parent or other legally obligated person is ordered to pay for  
4 the costs of detention as ordered the county may obtain a civil  
5 judgment against the parent or other legally obligated person and may  
6 enforce the judgment as in other civil actions.

7 **Sec. 5.** RCW 13.40.190 and 1987 c 281 s 5 are each amended to read  
8 as follows:

9 (1) In its dispositional order, the court shall require the  
10 respondent to make restitution to any persons who have suffered loss or  
11 damage as a result of the offense committed by the respondent. In  
12 addition, restitution may be ordered for loss or damage if the offender  
13 pleads guilty to a lesser offense or fewer offenses and agrees with the  
14 prosecutor's recommendation that the offender be required to pay  
15 restitution to a victim of an offense or offenses which, pursuant to a  
16 plea agreement, are not prosecuted. The payment of restitution shall  
17 be in addition to any punishment which is imposed pursuant to the other  
18 provisions of this chapter. The court may determine the amount, terms,  
19 and conditions of the restitution. Restitution may include the costs  
20 of counseling reasonably related to the offense. If the respondent  
21 participated in the crime with another person or other persons, all  
22 such participants shall be jointly and severally responsible for the  
23 payment of restitution. The court may not require the respondent to  
24 pay full or partial restitution if the respondent reasonably satisfies  
25 the court that he or she does not have the means to make full or  
26 partial restitution and could not reasonably acquire the means to pay  
27 such restitution. In cases where an offender has been committed to the  
28 department for a period of confinement exceeding fifteen weeks,  
29 restitution may be waived.

30 (2) In all cases, the court shall enter written findings stating  
31 the full amount of restitution due, even if the court also finds that  
32 the person owing restitution does not have the means to make full or  
33 partial payment and cannot reasonably acquire the means or the court  
34 waives restitution. Entry of an order limiting or waiving restitution  
35 under an adjudication for an offense shall not preclude the victim from  
36 recovering the full amount of restitution due through a civil action  
37 filed against the respondent or the respondent's parents or legal  
38 guardian under section 1 of this act.

1       (3) If an order includes restitution as one of the monetary  
2 assessments, the county clerk shall make disbursements to victims named  
3 in the order. The restitution to victims named in the order shall be  
4 paid prior to any payment for other penalties or monetary assessments.

5       (~~(3)~~) (4) A respondent under obligation to pay restitution may  
6 petition the court for modification of the restitution order.

7       **Sec. 6.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to read  
8 as follows:

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

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

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

35       (b) If the violation of the terms of the order under (a) of this  
36 subsection is failure to pay fines, penalty assessments, complete  
37 community service, or make restitution, the term of confinement imposed

1 under (a) of this subsection shall be assessed at a rate of one day of  
2 confinement for each twenty-five dollars or eight hours owed.

3 (4) If a respondent has been ordered to pay a fine or monetary  
4 penalty and due to a change of circumstance cannot reasonably comply  
5 with the order, the court, upon motion of the respondent, may order  
6 that the unpaid fine or monetary penalty be converted to community  
7 service. The number of hours of community service in lieu of a  
8 monetary penalty or fine shall be converted at the rate of the  
9 prevailing state minimum wage per hour. The monetary penalties or  
10 fines collected shall be deposited in the county general fund. A  
11 failure to comply with an order under this subsection shall be deemed  
12 a failure to comply with an order of community supervision and may be  
13 proceeded against as provided in this section.

14 (5) This section does not prohibit the victim owed restitution from  
15 collecting the full amount of restitution due through enforcement of a  
16 civil judgment obtained against the respondent or the respondent's  
17 parents under section 1 of this act.

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