
HOUSE BILL 2536

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By Representatives Morris, Long, Ballasiotes, Lemmon, Campbell, Karahalios, Edmondson, Sheldon, Mastin, Springer, Conway, L. Johnson, Moak, Ogden, Padden, Lisk, Appelwick, Brough, Brumsickle, Johanson, Van Loven, Quall, Rayburn, Talcott, Forner, Cooke and Wood

Read first time 01/17/94. Referred to Committee on Corrections.

1 AN ACT Relating to juvenile offenders; amending RCW 43.20A.090,
2 13.40.020, 13.40.025, and 13.40.027; adding new sections to chapter
3 13.40 RCW; creating new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the incidence of
6 juvenile crime has escalated at an alarming rate, and that the state's
7 juvenile rehabilitation system needs major adjustments in order to
8 respond.

9 The current system lacks adequate bed space, adequate population
10 forecasting, an effective sentencing scheme, an appropriate inmate
11 classification system, and sufficient judicial discretion in sentencing
12 young offenders.

13 These defects have often resulted in sentences that are driven by
14 fiscal policy, and not by rehabilitative or punitive principles; and

15 Washington must develop a juvenile offender rehabilitation system
16 that truly emphasizes public safety, offender responsibility, and
17 offender rehabilitation.

1 **Sec. 2.** RCW 43.20A.090 and 1970 ex.s. c 18 s 7 are each amended to
2 read as follows:

3 The secretary shall appoint a deputy secretary, a department
4 personnel director and such assistant secretaries as shall be needed to
5 administer the department. The deputy secretary shall have charge and
6 general supervision of the department in the absence or disability of
7 the secretary, and in case of a vacancy in the office of secretary,
8 shall continue in charge of the department until a successor is
9 appointed and qualified, or until the governor shall appoint an acting
10 secretary. The secretary shall appoint an assistant secretary to
11 administer the juvenile rehabilitation responsibilities required of the
12 department by chapters 13.04, 13.40, and 13.50 RCW. The officers
13 appointed under this section, and exempt from the provisions of the
14 state civil service law by the terms of RCW 41.06.076, shall be paid
15 salaries to be fixed by the governor in accordance with the procedure
16 established by law for the fixing of salaries for officers exempt from
17 the operation of the state civil service law.

18 **Sec. 3.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read
19 as follows:

20 For the purposes of this chapter:

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

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

24 (b) Manslaughter in the first degree; or

25 (c) Assault in the second degree, extortion in the first degree,
26 child molestation in the second degree, kidnapping in the second
27 degree, robbery in the second degree, residential burglary, or burglary
28 in the second degree, where such offenses include the infliction of
29 bodily harm upon another or where during the commission of or immediate
30 withdrawal from such an offense the perpetrator is armed with a deadly
31 weapon or firearm as defined in RCW 9A.04.110;

32 (2) "Community service" means compulsory service, without
33 compensation, performed for the benefit of the community by the
34 offender as punishment for committing an offense. Community service
35 may be performed through public or private organizations or through
36 work crews;

37 (3) "Community supervision" means an order of disposition by the
38 court of an adjudicated youth not committed to the department. A

1 community supervision order for a single offense may be for a period of
2 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
3 one year for other offenses. Community supervision is an
4 individualized program comprised of one or more of the following:

5 (a) Community-based sanctions;

6 (b) Community-based rehabilitation;

7 (c) Monitoring and reporting requirements;

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

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

11 (b) Community service not to exceed one hundred fifty hours of
12 service;

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

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

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

1 homes used for confinement shall not also be used for the placement of
2 dependent children. Confinement in detention group homes and detention
3 foster homes and electronic monitoring are subject to available funds;

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

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

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

12 (b) The criminal complaint was diverted by a prosecutor pursuant to
13 the provisions of this chapter on agreement of the respondent and after
14 an advisement to the respondent that the criminal complaint would be
15 considered as part of the respondent's criminal history;

16 (10) "Department" means the department of social and health
17 services;

18 (11) "Detention facility" means a county facility for the physical
19 confinement of a juvenile alleged to have committed an offense or an
20 adjudicated offender subject to a disposition or modification order and
21 includes a county group home, foster care home, inpatient drug
22 treatment program, juvenile boot camp, and electronic monitoring;

23 (12) "Diversion unit" means any probation counselor who enters into
24 a diversion agreement with an alleged youthful offender, or any other
25 person or entity except a law enforcement official or entity, with whom
26 the juvenile court administrator has contracted to arrange and
27 supervise such agreements pursuant to RCW 13.40.080, or any person or
28 entity specially funded by the legislature to arrange and supervise
29 diversion agreements in accordance with the requirements of this
30 chapter;

31 (13) "Institution" means a juvenile facility established pursuant
32 to chapters 72.05 and 72.16 through 72.20 RCW;

33 (14) "Juvenile," "youth," and "child" mean any individual who is
34 under the chronological age of eighteen years and who has not been
35 previously transferred to adult court;

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

1 (16) "Manifest injustice" means a disposition that would either
2 impose an excessive penalty on the juvenile, or would impose a serious,
3 and clear danger to society in light of the purposes of this chapter or
4 would fail to achieve the juvenile's rehabilitative needs;

5 (17) "Middle offender" means a person who has committed an offense
6 and who is neither a minor or first offender nor a serious offender;

7 (18) "Minor or first offender" means a person sixteen years of age
8 or younger whose current offense(s) and criminal history fall entirely
9 within one of the following categories:

10 (a) Four misdemeanors;

11 (b) Two misdemeanors and one gross misdemeanor;

12 (c) One misdemeanor and two gross misdemeanors;

13 (d) Three gross misdemeanors;

14 (e) One class C felony except manslaughter in the second degree and
15 one misdemeanor or gross misdemeanor;

16 (f) One class B felony except: Any felony which constitutes an
17 attempt to commit a class A felony; manslaughter in the first degree;
18 assault in the second degree; extortion in the first degree; indecent
19 liberties; kidnapping in the second degree; robbery in the second
20 degree; burglary in the second degree; residential burglary; vehicular
21 homicide; or arson in the second degree.

22 For purposes of this definition, current violations shall be
23 counted as misdemeanors;

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

28 (20) "Respondent" means a juvenile who is alleged or proven to have
29 committed an offense;

30 (21) "Restitution" means financial reimbursement by the offender to
31 the victim, and shall be limited to easily ascertainable damages for
32 injury to or loss of property, actual expenses incurred for medical
33 treatment for physical injury to persons, lost wages resulting from
34 physical injury, and costs of the victim's counseling reasonably
35 related to the offense if the offense is a sex offense. Restitution
36 shall not include reimbursement for damages for mental anguish, pain
37 and suffering, or other intangible losses. Nothing in this chapter
38 shall limit or replace civil remedies or defenses available to the
39 victim or offender;

1 (22) "Secretary" means the secretary of the department of social
2 and health services;

3 (23) "Services" mean services which provide alternatives to
4 incarceration for those juveniles who have pleaded or been adjudicated
5 guilty of an offense or have signed a diversion agreement pursuant to
6 this chapter;

7 (24) "Sex offense" means an offense defined as a sex offense in RCW
8 9.94A.030;

9 (25) "Sexual motivation" means that one of the purposes for which
10 the respondent committed the offense was for the purpose of his or her
11 sexual gratification;

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

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

18 (28) "Assistant secretary" means the assistant secretary for
19 juvenile rehabilitation within the department of social and health
20 services.

21 NEW SECTION. Sec. 4. A new section is added to chapter 13.40 RCW
22 to read as follows:

23 The assistant secretary shall manage and administer the
24 department's juvenile rehabilitation responsibilities, including but
25 not limited to the operation of all state institutions or facilities
26 used for juvenile rehabilitation.

27 The assistant secretary shall:

28 (1) Prepare a biennial budget request sufficient to meet the
29 confinement and rehabilitative needs of the juvenile rehabilitation
30 program, as forecast by the office of financial management;

31 (2) Create by rule a formal system for inmate classification. This
32 classification system shall consider:

33 (a) Public safety;

34 (b) Internal security and staff safety; and

35 (c) Rehabilitative resources both within and outside the
36 department;

37 (3) Develop substance abuse treatment programs for all state
38 juvenile rehabilitation facilities and institutions;

1 (4) Develop vocational education and instruction programs at all
2 state juvenile rehabilitation facilities and institutions;

3 (5) Work with local jurisdictions to develop regional facilities
4 with a variety of custody levels; and

5 (6) Develop by rule effective disciplinary policies to maintain
6 order within institutions.

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40 RCW
8 to read as follows:

9 The assistant secretary shall issue arrest warrants for juveniles
10 who escape from department residential custody. These arrest warrants
11 shall authorize any law enforcement, probation and parole, or peace
12 officer of this state, or any other state where the juvenile is
13 located, to arrest the juvenile and to place the juvenile in physical
14 custody pending the juvenile's return to confinement in a state
15 juvenile rehabilitation facility.

16 **Sec. 6.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
17 as follows:

18 (1) There is established a juvenile disposition standards
19 commission to propose disposition standards to the legislature in
20 accordance with RCW 13.40.030 and perform the other responsibilities
21 set forth in this chapter.

22 (2) The commission shall be composed of the secretary or the
23 secretary's designee and the following ~~((nine))~~ fourteen members
24 appointed by the governor, subject to confirmation by the senate: (a)
25 ~~((A))~~ Four superior court judges; (b) ~~((a))~~ two prosecuting
26 ~~((attorney))~~ or deputy prosecuting attorneys; (c) a law enforcement
27 officer; (d) an administrator of juvenile court services; (e) ~~((a))~~ two
28 public defenders actively practicing in juvenile court; (f) a county
29 legislative official or county executive; ~~((and))~~ (g) three other
30 persons who have demonstrated significant interest in the adjudication
31 and disposition of juvenile offenders; and (h) one member from each
32 caucus of the senate and house of representatives, who shall be
33 nonvoting members. In making the appointments, the governor shall seek
34 the recommendations of the association of superior court judges in
35 respect to the members who ~~((is—))~~ are superior court judges; of
36 Washington prosecutors in respect to the prosecuting ~~((attorney))~~ or
37 deputy prosecuting attorney members; of the Washington association of

1 sheriffs and police chiefs in respect to the member who is a law
2 enforcement officer; of juvenile court administrators in respect to the
3 member who is a juvenile court administrator; and of the state bar
4 association in respect to the public defender members; and of the
5 Washington association of counties in respect to the member who is
6 either a county legislative official or county executive.

7 (3) The (~~secretary or the secretary's designee~~) governor shall
8 (~~serve as chairman~~) designate the chair of the commission.

9 (4) The secretary shall serve on the commission during the
10 secretary's tenure as secretary of the department. The term of the
11 remaining members of the commission shall be three years. The initial
12 terms shall be determined by lot conducted at the commission's first
13 meeting as follows: (a) Four members shall serve a (~~two-year~~) one-
14 year term; (~~and~~) (b) four members shall serve a (~~three-year~~) two-
15 year term; and (c) six members shall serve a three-year term. In the
16 event of a vacancy, the appointing authority shall designate a new
17 member to complete the remainder of the unexpired term.

18 (5) Commission members shall be reimbursed for travel expenses as
19 provided in RCW 43.03.050 and 43.03.060. Members shall be compensated
20 in accordance with RCW 43.03.240.

21 (6) The commission shall meet at least once every three months.

22 **Sec. 7.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
23 as follows:

24 (1) It is the responsibility of the commission to: (a)(i) Evaluate
25 the effectiveness of existing disposition standards and related
26 statutes in implementing policies set forth in RCW 13.40.010 generally,
27 (ii) specifically review the guidelines relating to the confinement of
28 minor and first offenders as well as the use of diversion, and (iii)
29 review the application of current and proposed juvenile sentencing
30 standards and guidelines for potential adverse impacts on the
31 sentencing outcomes of racial and ethnic minority youth; (b) solicit
32 the comments and suggestions of the juvenile justice community
33 concerning disposition standards; (c) develop dispositions, including
34 disposition alternatives, that maximize judicial discretion; (d)
35 develop dispositions that provide for confinement time based upon
36 public safety, proportionality, and rehabilitative needs; and (~~(e)~~)
37 (e) make recommendations to the legislature regarding revisions or
38 modifications of the disposition standards in accordance with RCW

1 13.40.030. The evaluations shall be submitted to the legislature on
2 December 1 of each even-numbered year thereafter.

3 (2) (~~It is the responsibility of~~) The commission shall appoint a
4 research staff of sufficient size and with sufficient resources to
5 accomplish its duties. The salary for a full-time executive officer,
6 if any, shall be fixed by the governor pursuant to RCW 43.03.040.

7 (3) The department (~~to~~) shall, at no cost: (a) Provide the
8 commission with available data concerning the implementation of the
9 disposition standards and related statutes and their effect on the
10 performance of the department's responsibilities relating to juvenile
11 offenders; (b) at the request of the commission, provide technical and
12 administrative assistance to the commission in the performance of its
13 responsibilities; and (c) provide the commission and legislature with
14 recommendations for modification of the disposition standards.

15 NEW SECTION. Sec. 8. The legislature finds that:

16 Local jurisdictions have difficulty administering and enforcing the
17 laws related to juvenile offenders;

18 These difficulties include the local jurisdictions' abilities to
19 arrest, adjudicate, confine, administer, and supervise juvenile
20 offenders;

21 These difficulties have resulted in significant delays in the
22 administration of justice to juvenile offenders;

23 These difficulties may be due to a number of factors, including,
24 but not necessarily limited to, resource limitations within the various
25 units of government charged with the responsibility for administering
26 and enforcing laws related to juvenile offenders.

27 Therefore, effective July 1, 1994, a special legislative committee
28 is created to assess the ability and needs of local jurisdictions to
29 address adequately the administration of justice to juvenile offenders.
30 Specifically, this committee shall review the implementation and
31 administration of:

32 (1) Chapter 13.04 RCW, the basic juvenile court act;

33 (2) Chapter 13.06 RCW, consolidated juvenile services funding;

34 (3) Chapter 13.16 RCW, places of detention;

35 (4) Chapter 13.20 RCW, county detention facilities; and

36 (5) Chapter 13.40 RCW, the juvenile justice act of 1977.

37 The committee established under this section shall consist of the
38 members of the law and justice committee of the senate and the

1 corrections committee of the house of representatives. This committee
2 shall meet and conduct hearings as often as is necessary to carry out
3 its responsibilities under this section.

4 The special committee shall receive access to all relevant
5 information necessary to monitor the conduct of agencies or employees.
6 All confidential information received by the special committee under
7 this section shall be kept confidential by members of the committee and
8 shall not be further disseminated unless specifically authorized by
9 state or federal law.

10 The special committee shall report its findings and make
11 recommendations regarding the issues and chapters cited in this section
12 in a report submitted to the legislature before the 1996 regular
13 session of the legislature.

14 The special committee, unless recreated by the legislature, shall
15 cease to exist after submitting the report required under this section.

16 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and shall take
19 effect immediately.

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