

1 1088 AAS 4/4/95 S2899.1

2 **HB 1088** - S AMD 282

3 By Senators Hargrove and Long

4 ADOPTED 4/4/95

5 On page 8, line 2, after "9.94A.127" insert "or 13.40.135"

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9 On page 15, after line 6, insert the following:

10 "Sec. 5. RCW 13.40.150 and 1992 c 205 s 109 are each amended to
11 read as follows:

12 (1) In disposition hearings all relevant and material evidence,
13 including oral and written reports, may be received by the court and
14 may be relied upon to the extent of its probative value, even though
15 such evidence may not be admissible in a hearing on the information.
16 The youth or the youth's counsel and the prosecuting attorney shall be
17 afforded an opportunity to examine and controvert written reports so
18 received and to cross-examine individuals making reports when such
19 individuals are reasonably available, but sources of confidential
20 information need not be disclosed. The prosecutor and counsel for the
21 juvenile may submit recommendations for disposition.

22 (2) For purposes of disposition:

23 (a) Violations which are current offenses count as misdemeanors;

24 (b) Violations may not count as part of the offender's criminal
25 history;

26 (c) In no event may a disposition for a violation include
27 confinement.

28 (3) Before entering a dispositional order as to a respondent found
29 to have committed an offense, the court shall hold a disposition
30 hearing, at which the court shall:

31 (a) Consider the facts supporting the allegations of criminal
32 conduct by the respondent;

33 (b) Consider information and arguments offered by parties and their
34 counsel;

- 1 (c) Consider any predisposition reports;
- 2 (d) Consult with the respondent's parent, guardian, or custodian on
3 the appropriateness of dispositional options under consideration and
4 afford the respondent and the respondent's parent, guardian, or
5 custodian an opportunity to speak in the respondent's behalf;
- 6 (e) Allow the victim or a representative of the victim and an
7 investigative law enforcement officer to speak;
- 8 (f) Determine the amount of restitution owing to the victim, if
9 any;
- 10 (g) Determine whether the respondent is a serious offender, a
11 middle offender, or a minor or first offender;
- 12 (h) Consider whether or not any of the following mitigating factors
13 exist:
- 14 (i) The respondent's conduct neither caused nor threatened serious
15 bodily injury or the respondent did not contemplate that his or her
16 conduct would cause or threaten serious bodily injury;
- 17 (ii) The respondent acted under strong and immediate provocation;
- 18 (iii) The respondent was suffering from a mental or physical
19 condition that significantly reduced his or her culpability for the
20 offense though failing to establish a defense;
- 21 (iv) Prior to his or her detection, the respondent compensated or
22 made a good faith attempt to compensate the victim for the injury or
23 loss sustained; and
- 24 (v) There has been at least one year between the respondent's
25 current offense and any prior criminal offense;
- 26 (i) Consider whether or not any of the following aggravating
27 factors exist:
- 28 (i) In the commission of the offense, or in flight therefrom, the
29 respondent inflicted or attempted to inflict serious bodily injury to
30 another;
- 31 (ii) The offense was committed in an especially heinous, cruel, or
32 depraved manner;
- 33 (iii) The victim or victims were particularly vulnerable;
- 34 (iv) The respondent has a recent criminal history or has failed to
35 comply with conditions of a recent dispositional order or diversion
36 agreement;
- 37 (v) The current offense included a finding of sexual motivation
38 pursuant to RCW ((9.94A.127)) 13.40.135;
- 39 (vi) The respondent was the leader of a criminal enterprise

1 involving several persons; and

2 (vii) There are other complaints which have resulted in diversion
3 or a finding or plea of guilty but which are not included as criminal
4 history.

5 (4) The following factors may not be considered in determining the
6 punishment to be imposed:

7 (a) The sex of the respondent;

8 (b) The race or color of the respondent or the respondent's family;

9 (c) The creed or religion of the respondent or the respondent's
10 family;

11 (d) The economic or social class of the respondent or the
12 respondent's family; and

13 (e) Factors indicating that the respondent may be or is a dependent
14 child within the meaning of this chapter.

15 (5) A court may not commit a juvenile to a state institution solely
16 because of the lack of facilities, including treatment facilities,
17 existing in the community."

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21 On page 1, line 2 of the title, after "9A.44.130," strike "and
22 9A.44.140" and insert "9A.44.140, and 13.40.150"

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