

1 **HB 1637 - H AMD 837 ADOPTED 2-11-98**

2 By Representative Costa

3 Beginning on page 1, line 4, strike all of section 1 and insert:

4 "Sec. 1. RCW 13.40.020 and 1997 c 338 s 9 are each amended to
5 read as follows:

6 For the purposes of this chapter:

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

16 (2) Community-based sanctions may include one or more of the
17 following:

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

19 (b) Community service not to exceed one hundred fifty hours of
20 service;

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

26 (4) "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

1 supervision is an individualized program comprised of one or more of
2 the following:

- 3 (a) Community-based sanctions;
- 4 (b) Community-based rehabilitation;
- 5 (c) Monitoring and reporting requirements;
- 6 (d) Posting of a probation bond;

7 (5) "Confinement" means physical custody by the department of
8 social and health services in a facility operated by or pursuant to a
9 contract with the state, or physical custody in a detention facility
10 operated by or pursuant to a contract with any county. The county may
11 operate or contract with vendors to operate county detention
12 facilities. The department may operate or contract to operate
13 detention facilities for juveniles committed to the department.
14 Pretrial confinement or confinement of less than thirty-one days
15 imposed as part of a disposition or modification order may be served
16 consecutively or intermittently, in the discretion of the court;

17 (6) "Court," when used without further qualification, means the
18 juvenile court judge(s) or commissioner(s);

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

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

25 (b) The criminal complaint was diverted by a prosecutor pursuant
26 to the provisions of this chapter on agreement of the respondent and
27 after an advisement to the respondent that the criminal complaint would
28 be considered as part of the respondent's criminal history. A
29 successfully completed deferred adjudication that was entered before
30 July 1, 1997, or a deferred disposition shall not be considered part of
31 the respondent's criminal history;

32 (8) "Department" means the department of social and health
33 services;

34 (9) "Detention facility" means a county facility, paid for by the
35 county, for the physical confinement of a juvenile alleged to have
36 committed an offense or an adjudicated offender subject to a
37 disposition or modification order. "Detention facility" includes

1 county group homes, inpatient substance abuse programs, juvenile basic
2 training camps, and electronic monitoring;

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

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

24 (12) "Institution" means a juvenile facility established pursuant
25 to chapters 72.05 and 72.16 through 72.20 RCW;

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

31 (14) "Juvenile," "youth," and "child" mean any individual who is
32 under the chronological age of eighteen years and who has not been
33 previously transferred to adult court pursuant to RCW 13.40.110 or who
34 is otherwise under adult court jurisdiction;

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

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

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

9 (a) Four misdemeanors;

10 (b) Two misdemeanors and one gross misdemeanor;

11 (c) One misdemeanor and two gross misdemeanors; and

12 (d) Three gross misdemeanors.

13 For purposes of this definition, current violations shall be
14 counted as misdemeanors;

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

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

27 (21) "Probation bond" means a bond, posted with sufficient
28 security by a surety justified and approved by the court, to secure the
29 offender's appearance at required court proceedings and compliance with
30 court-ordered community supervision or conditions of release ordered
31 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
32 cash or posting of other collateral in lieu of a bond if approved by
33 the court;

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

36 (23) "Restitution" means financial reimbursement by the offender
37 to the victim, and shall be limited to easily ascertainable damages for
38 injury to or loss of property, actual expenses incurred for medical

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

8 (24) "Secretary" means the secretary of the department of social
9 and health services. "Assistant secretary" means the assistant
10 secretary for juvenile rehabilitation for the department;

11 (25) "Serious offender" means a person fifteen years of age or
12 older who has committed an offense which if committed by an adult would
13 be:

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

15 (b) Manslaughter in the first degree; or

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

23 (26) "Services" means services which provide alternatives to
24 incarceration for those juveniles who have pleaded or been adjudicated
25 guilty of an offense or have signed a diversion agreement pursuant to
26 this chapter;

27 (27) "Sex offense" means an offense defined as a sex offense in
28 RCW 9.94A.030;

29 (28) "Sexual motivation" means that one of the purposes for which
30 the respondent committed the offense was for the purpose of his or her
31 sexual gratification;

32 (29) "Surety" means an entity licensed under state insurance laws
33 or by the state department of licensing, to write corporate, property,
34 or probation bonds within the state, and justified and approved by the
35 superior court of the county having jurisdiction of the case;

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

1 (31) "Violent offense" means a violent offense as defined in RCW
2 9.94A.030.

3 This section expires July 1, 1998.

4 **Sec. 2.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to
5 read as follows:

6 For the purposes of this chapter:

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

16 (2) Community-based sanctions may include one or more of the
17 following:

18 (a) A fine, not to exceed five hundred dollars;

19 (b) Community service not to exceed one hundred fifty hours of
20 service;

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

26 (4) "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

1 supervision is an individualized program comprised of one or more of
2 the following:

- 3 (a) Community-based sanctions;
- 4 (b) Community-based rehabilitation;
- 5 (c) Monitoring and reporting requirements;
- 6 (d) Posting of a probation bond;

7 (5) "Confinement" means physical custody by the department of
8 social and health services in a facility operated by or pursuant to a
9 contract with the state, or physical custody in a detention facility
10 operated by or pursuant to a contract with any county. The county may
11 operate or contract with vendors to operate county detention
12 facilities. The department may operate or contract to operate
13 detention facilities for juveniles committed to the department.
14 Pretrial confinement or confinement of less than thirty-one days
15 imposed as part of a disposition or modification order may be served
16 consecutively or intermittently, in the discretion of the court;

17 (6) "Court," when used without further qualification, means the
18 juvenile court judge(s) or commissioner(s);

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

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

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

32 (8) "Department" means the department of social and health
33 services;

34 (9) "Detention facility" means a county facility, paid for by the
35 county, for the physical confinement of a juvenile alleged to have
36 committed an offense or an adjudicated offender subject to a
37 disposition or modification order. "Detention facility" includes

1 county group homes, inpatient substance abuse programs, juvenile basic
2 training camps, and electronic monitoring;

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

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

24 (12) "Institution" means a juvenile facility established pursuant
25 to chapters 72.05 and 72.16 through 72.20 RCW;

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

31 (14) "Juvenile," "youth," and "child" mean any individual who is
32 under the chronological age of eighteen years and who has not been
33 previously transferred to adult court pursuant to RCW 13.40.110 or who
34 is otherwise under adult court jurisdiction;

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

1 (16) "Local sanctions" means one or more of the following: (a)
2 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
3 0-150 hours of community service; or (d) \$0-\$500 fine;

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

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

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

19 (20) "Probation bond" means a bond, posted with sufficient
20 security by a surety justified and approved by the court, to secure the
21 offender's appearance at required court proceedings and compliance with
22 court-ordered community supervision or conditions of release ordered
23 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
24 cash or posting of other collateral in lieu of a bond if approved by
25 the court;

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

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

1 (23) "Secretary" means the secretary of the department of social
2 and health services. "Assistant secretary" means the assistant
3 secretary for juvenile rehabilitation for the department;

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

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

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

13 (27) "Surety" means an entity licensed under state insurance laws
14 or by the state department of licensing, to write corporate, property,
15 or probation bonds within the state, and justified and approved by the
16 superior court of the county having jurisdiction of the case;

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

20 (29) "Violent offense" means a violent offense as defined in RCW
21 9.94A.030."

22 Renumber the remaining section and correct the title.

EFFECT: Technical correction to update an underlying section in the bill that was amended last session. There are two RCW 13.40.020 sections in the amendment because last session the Legislature created two versions of this section - one which is in effect until July 1, 1998 and another which takes effect on July 1, 1998.