

1 3900-S3.E AMS ZARE CALL 004

2 **E3SHB 3900** - S AMD to S AMD (S-3222.1) - 439
3 By Senators Zarelli, Long and Roach

4 ADOPTED 4/16/97

5 On page 52, after line 12 of the amendment, insert the following:

6 "Sec. 11. RCW 13.40.038 and 1992 c 205 s 105 are each amended to
7 read as follows:

8 It is the policy of this state that all county juvenile detention
9 facilities provide a humane, safe, and rehabilitative environment (~~and~~
10 ~~that unadjudicated youth remain in the community whenever possible,~~
11 ~~consistent with public safety and the provisions of chapter 13.40~~
12 ~~RCW)).~~ It is the policy of this state that a juvenile suspect be
13 removed from a confrontational situation as soon as possible. Counties
14 should emphasize immediate enforcement by arrest, booking, and release
15 to a responsible adult or the department of social and health services
16 as provided in RCW 13.40.040.

17 The counties shall develop and implement detention intake standards
18 and risk assessment standards to determine whether detention is
19 warranted and if so whether the juvenile should be placed in secure,
20 nonsecure, or home detention to implement the goals of this section.
21 Inability to pay for a less restrictive detention placement shall not
22 be a basis for denying a respondent a less restrictive placement in the
23 community. The detention and risk assessment standards shall be
24 developed and implemented no later than December 31, 1992."

25 Renumber the remaining sections consecutively and correct any
26 internal references accordingly.

27 **E3SHB 3900** - S AMD TO S AMD (S-3222.1/97) - 439
28 By Senators Zarelli, Long and Roach

29 ADOPTED 4/16/97

30 On page 146, line 10, of the title amendment, after "13.40.0357,"
31 insert "13.40.038,"

1 Renumber the sections consecutively and correct any internal references
2 accordingly.

3 **E3SHB 3900** - S AMD to S AMD (S-3222.1)

4 By Senator Zarelli

5 ADOPTED 4/16/97

6 Beginning on page 52, after line 12 of the amendment, strike all of
7 section 11 and insert the following:

8 "Sec. 11. RCW 13.40.040 and 1995 c 395 s 4 are each amended to
9 read as follows:

10 (1) A juvenile may be taken into custody:

11 (a) Pursuant to a court order if a complaint is filed with the
12 court alleging, and the court finds probable cause to believe, that the
13 juvenile has committed an offense or has violated terms of a
14 disposition order or release order; or

15 (b) Without a court order, by a law enforcement officer if grounds
16 exist for the arrest of an adult in identical circumstances. Admission
17 to, and continued custody in, a court detention facility shall be
18 governed by subsection (~~((2))~~) (3) of this section; or

19 (c) Pursuant to a court order that the juvenile be held as a
20 material witness; or

21 (d) Where the secretary or the secretary's designee has suspended
22 the parole of a juvenile offender.

23 (2) A juvenile taken into custody may be held in detention until
24 the juvenile can be released to a responsible adult.

25 (3) Except as provided in subsection (2) of this section, a
26 juvenile may not be held in detention unless there is probable cause to
27 believe that:

28 (a) The juvenile has committed an offense or has violated the terms
29 of a disposition order; and

30 (i) The juvenile will likely fail to appear for further
31 proceedings; or

32 (ii) Detention is required to protect the juvenile from himself or
33 herself; or

34 (iii) The juvenile is a threat to community safety; or

35 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
36 interfere with the administration of justice; or

1 (v) The juvenile has committed a crime while another case was
2 pending; or

3 (b) The juvenile is a fugitive from justice; or

4 (c) The juvenile's parole has been suspended or modified; or

5 (d) The juvenile is a material witness.

6 (~~(3)~~) (4) Upon a finding that members of the community have
7 threatened the health of a juvenile taken into custody, at the
8 juvenile's request the court may order continued detention pending
9 further order of the court.

10 (~~(4)~~) (5) A juvenile detained under this section may be released
11 upon posting a probation bond set by the court. The juvenile's parent
12 or guardian may sign for the probation bond. A court authorizing such
13 a release shall issue an order containing a statement of conditions
14 imposed upon the juvenile and shall set the date of his or her next
15 court appearance. The court shall advise the juvenile of any
16 conditions specified in the order and may at any time amend such an
17 order in order to impose additional or different conditions of release
18 upon the juvenile or to return the juvenile to custody for failing to
19 conform to the conditions imposed. In addition to requiring the
20 juvenile to appear at the next court date, the court may condition the
21 probation bond on the juvenile's compliance with conditions of release.
22 The juvenile's parent or guardian may notify the court that the
23 juvenile has failed to conform to the conditions of release or the
24 provisions in the probation bond. If the parent notifies the court of
25 the juvenile's failure to comply with the probation bond, the court
26 shall notify the surety. As provided in the terms of the bond, the
27 surety shall provide notice to the court of the offender's
28 noncompliance. Failure to appear on the date scheduled by the court
29 pursuant to this section shall constitute the crime of bail jumping."

30 Renumber the sections consecutively and correct any internal
31 references accordingly.

32 **E3SHB 3900** - S AMD TO S AMD (S-3222.1) - 439
33 By Senators Zarelli, Long and Roach

34 ADOPTED 4/16/97

35 Beginning on page 63, after line 28, strike all of section 17 and
36 insert the following:

1 **"Sec. 17.** RCW 13.40.080 and 1996 c 124 s 1 are each amended to
2 read as follows:

3 (1) A diversion agreement shall be a contract between a juvenile
4 accused of an offense and a diversionary unit whereby the juvenile
5 agrees to fulfill certain conditions in lieu of prosecution. Such
6 agreements may be entered into only after the prosecutor, or probation
7 counselor pursuant to this chapter, has determined that probable cause
8 exists to believe that a crime has been committed and that the juvenile
9 committed it. Such agreements shall be entered into as expeditiously
10 as possible.

11 (2) A diversion agreement shall be limited to one or more of the
12 following:

13 (a) Community service not to exceed one hundred fifty hours, not to
14 be performed during school hours if the juvenile is attending school;

15 (b) Restitution limited to the amount of actual loss incurred by
16 the victim;

17 (c) Attendance at up to ten hours of counseling and/or up to twenty
18 hours of educational or informational sessions at a community agency.
19 The educational or informational sessions may include sessions relating
20 to respect for self, others, and authority; victim awareness;
21 accountability; self-worth; responsibility; work ethics; good
22 citizenship; literacy; and life skills. For purposes of this section,
23 "community agency" may also mean a community-based nonprofit
24 organization, if approved by the diversion unit. The state shall not
25 be liable for costs resulting from the diversionary unit exercising the
26 option to permit diversion agreements to mandate attendance at up to
27 ten hours of counseling and/or up to twenty hours of educational or
28 informational sessions;

29 (d) A fine, not to exceed one hundred dollars. (~~In determining~~
30 ~~the amount of the fine, the diversion unit shall consider only the~~
31 ~~juvenile's financial resources and whether the juvenile has the means~~
32 ~~to pay the fine. The diversion unit shall not consider the financial~~
33 ~~resources of the juvenile's parents, guardian, or custodian in~~
34 ~~determining the fine to be imposed)); and~~

35 (e) Requirements to remain during specified hours at home, school,
36 or work, and restrictions on leaving or entering specified geographical
37 areas.

38 (3) In assessing periods of community service to be performed and
39 restitution to be paid by a juvenile who has entered into a diversion

1 agreement, the court officer to whom this task is assigned shall
2 consult with the juvenile's custodial parent or parents or guardian and
3 victims who have contacted the diversionary unit and, to the extent
4 possible, involve members of the community. Such members of the
5 community shall meet with the juvenile and advise the court officer as
6 to the terms of the diversion agreement and shall supervise the
7 juvenile in carrying out its terms.

8 (4)(a) A diversion agreement may not exceed a period of six months
9 and may include a period extending beyond the eighteenth birthday of
10 the diveree.

11 (b) If additional time is necessary for the juvenile to complete
12 restitution to the victim, the time period limitations of this
13 subsection may be extended by an additional six months.

14 (c) If the juvenile has not paid the full amount of restitution by
15 the end of the additional six-month period, then the juvenile shall be
16 referred to the juvenile court for entry of an order establishing the
17 amount of restitution still owed to the victim. In this order, the
18 court shall also determine the terms and conditions of the restitution,
19 including a payment plan extending up to ten years if the court
20 determines that the juvenile does not have the means to make full
21 restitution over a shorter period. For the purposes of this subsection
22 (4)(c), the juvenile shall remain under the court's jurisdiction for a
23 maximum term of ten years or longer after the juvenile's eighteenth
24 birthday(~~(. The court may not require the juvenile to pay full or~~
25 ~~partial restitution if the juvenile reasonably satisfies the court that~~
26 ~~he or she does not have the means to make full or partial restitution~~
27 ~~and could not reasonably acquire the means to pay the restitution over~~
28 ~~a ten-year period)) or longer if necessary to recover the full amount
29 of restitution. The county clerk shall make disbursements to victims
30 named in the order. The restitution to victims named in the order
31 shall be paid prior to any payment for other penalties or monetary
32 assessments. A juvenile under obligation to pay restitution may
33 petition the court for modification of the restitution order.~~

34 (5) The juvenile shall retain the right to be referred to the court
35 at any time prior to the signing of the diversion agreement.

36 (6) Divertees and potential divertees shall be afforded due process
37 in all contacts with a diversionary unit regardless of whether the
38 juveniles are accepted for diversion or whether the diversion program

1 is successfully completed. Such due process shall include, but not be
2 limited to, the following:

3 (a) A written diversion agreement shall be executed stating all
4 conditions in clearly understandable language;

5 (b) Violation of the terms of the agreement shall be the only
6 grounds for termination;

7 (c) No divertee may be terminated from a diversion program without
8 being given a court hearing, which hearing shall be preceded by:

9 (i) Written notice of alleged violations of the conditions of the
10 diversion program; and

11 (ii) Disclosure of all evidence to be offered against the divertee;

12 (d) The hearing shall be conducted by the juvenile court and shall
13 include:

14 (i) Opportunity to be heard in person and to present evidence;

15 (ii) The right to confront and cross-examine all adverse witnesses;

16 (iii) A written statement by the court as to the evidence relied on
17 and the reasons for termination, should that be the decision; and

18 (iv) Demonstration by evidence that the divertee has substantially
19 violated the terms of his or her diversion agreement.

20 (e) The prosecutor may file an information on the offense for which
21 the divertee was diverted:

22 (i) In juvenile court if the divertee is under eighteen years of
23 age; or

24 (ii) In superior court or the appropriate court of limited
25 jurisdiction if the divertee is eighteen years of age or older.

26 (7) The diversion unit shall, subject to available funds, be
27 responsible for providing interpreters when juveniles need interpreters
28 to effectively communicate during diversion unit hearings or
29 negotiations.

30 (8) The diversion unit shall be responsible for advising a divertee
31 of his or her rights as provided in this chapter.

32 (9) The diversion unit may refer a juvenile to community-based
33 counseling or treatment programs.

34 (10) The right to counsel shall inure prior to the initial
35 interview for purposes of advising the juvenile as to whether he or she
36 desires to participate in the diversion process or to appear in the
37 juvenile court. The juvenile may be represented by counsel at any
38 critical stage of the diversion process, including intake interviews
39 and termination hearings. The juvenile shall be fully advised at the

1 intake of his or her right to an attorney and of the relevant services
2 an attorney can provide. For the purpose of this section, intake
3 interviews mean all interviews regarding the diversion agreement
4 process.

5 The juvenile shall be advised that a diversion agreement shall
6 constitute a part of the juvenile's criminal history as defined by RCW
7 13.40.020(~~(+9)~~) (8). A signed acknowledgment of such advisement shall
8 be obtained from the juvenile, and the document shall be maintained by
9 the diversionary unit together with the diversion agreement, and a copy
10 of both documents shall be delivered to the prosecutor if requested by
11 the prosecutor. The supreme court shall promulgate rules setting forth
12 the content of such advisement in simple language.

13 (11) When a juvenile enters into a diversion agreement, the
14 juvenile court may receive only the following information for
15 dispositional purposes:

- 16 (a) The fact that a charge or charges were made;
- 17 (b) The fact that a diversion agreement was entered into;
- 18 (c) The juvenile's obligations under such agreement;
- 19 (d) Whether the alleged offender performed his or her obligations
20 under such agreement; and
- 21 (e) The facts of the alleged offense.

22 (12) A diversionary unit may refuse to enter into a diversion
23 agreement with a juvenile. When a diversionary unit refuses to enter
24 a diversion agreement with a juvenile, it shall immediately refer such
25 juvenile to the court for action and shall forward to the court the
26 criminal complaint and a detailed statement of its reasons for refusing
27 to enter into a diversion agreement. The diversionary unit shall also
28 immediately refer the case to the prosecuting attorney for action if
29 such juvenile violates the terms of the diversion agreement.

30 (13) A diversionary unit may, in instances where it determines that
31 the act or omission of an act for which a juvenile has been referred to
32 it involved no victim, or where it determines that the juvenile
33 referred to it has no prior criminal history and is alleged to have
34 committed an illegal act involving no threat of or instance of actual
35 physical harm and involving not more than fifty dollars in property
36 loss or damage and that there is no loss outstanding to the person or
37 firm suffering such damage or loss, counsel and release or release such
38 a juvenile without entering into a diversion agreement. A diversion
39 unit's authority to counsel and release a juvenile under this

1 subsection shall include the authority to refer the juvenile to
2 community-based counseling or treatment programs. Any juvenile
3 released under this subsection shall be advised that the act or
4 omission of any act for which he or she had been referred shall
5 constitute a part of the juvenile's criminal history as defined by RCW
6 13.40.020(~~(+9)~~) (8). A signed acknowledgment of such advisement shall
7 be obtained from the juvenile, and the document shall be maintained by
8 the unit, and a copy of the document shall be delivered to the
9 prosecutor if requested by the prosecutor. The supreme court shall
10 promulgate rules setting forth the content of such advisement in simple
11 language. A juvenile determined to be eligible by a diversionary unit
12 for release as provided in this subsection shall retain the same right
13 to counsel and right to have his or her case referred to the court for
14 formal action as any other juvenile referred to the unit.

15 (14) A diversion unit may supervise the fulfillment of a diversion
16 agreement entered into before the juvenile's eighteenth birthday and
17 which includes a period extending beyond the diverttee's eighteenth
18 birthday.

19 (15) If a fine required by a diversion agreement cannot reasonably
20 be paid due to a change of circumstance, the diversion agreement may be
21 modified at the request of the diverttee and with the concurrence of the
22 diversion unit to convert an unpaid fine into community service. The
23 modification of the diversion agreement shall be in writing and signed
24 by the diverttee and the diversion unit. The number of hours of
25 community service in lieu of a monetary penalty shall be converted at
26 the rate of the prevailing state minimum wage per hour.

27 (16) Fines imposed under this section shall be collected and paid
28 into the county general fund in accordance with procedures established
29 by the juvenile court administrator under RCW 13.04.040 and may be used
30 only for juvenile services. In the expenditure of funds for juvenile
31 services, there shall be a maintenance of effort whereby counties
32 exhaust existing resources before using amounts collected under this
33 section."

34 Renumber the sections consecutively and correct any internal
35 references accordingly.

1 **E3SHB 3900** - S AMD TO S AMD (S-3222.1) - 439
2 By Senators Zarelli, Long and Roach

3 ADOPTED 4/16/97

4 On page 84, line 21, after "restitution" strike "may" and insert
5 "~~(may)~~ shall"

6 Renumber the sections consecutively and correct any internal
7 references accordingly.

8 **E3SHB 3900** - S AMD TO S AMD (S-3222.1) - 439
9 By Senators Zarelli, Long and Roach

10 ADOPTED 4/16/97

11 Beginning on page 95, after line 11 of the amendment, strike all of
12 section 37 and insert the following:

13 "**Sec. 37.** RCW 13.40.320 and 1995 c 40 s 1 are each amended to read
14 as follows:

15 (1) The department of social and health services shall establish
16 and operate a medium security juvenile offender basic training camp
17 program. The department shall site a juvenile offender basic training
18 camp facility in the most cost-effective facility possible and shall
19 review the possibility of using an existing abandoned and/or available
20 state, federally, or military-owned site or facility.

21 (2) The department may contract under this chapter with private
22 companies, the national guard, or other federal, state, or local
23 agencies to operate the juvenile offender basic training camp,
24 notwithstanding the provisions of RCW 41.06.380. Requests for
25 proposals from possible contractors shall not call for payment on a per
26 diem basis.

27 (3) The juvenile offender basic training camp shall accommodate at
28 least seventy offenders. The beds shall count as additions to, and not
29 be used as replacements for, existing bed capacity at existing
30 department of social and health services juvenile facilities.

31 (4) The juvenile offender basic training camp shall be a structured
32 and regimented model lasting one hundred twenty days emphasizing the
33 building up of an offender's self-esteem, confidence, and discipline.
34 The juvenile offender basic training camp program shall provide

1 participants with basic education, (~~prevocational training,~~) work-
2 based learning, live work, work ethic skills, (~~conflict resolution~~
3 ~~counseling,~~ ~~substance abuse intervention,~~ ~~anger management~~
4 ~~counseling,~~) and structured intensive physical training. The juvenile
5 offender basic training camp program shall have a curriculum training
6 and work schedule that incorporates a balanced assignment of these (~~or~~
7 ~~other rehabilitation and training~~) components for no less than sixteen
8 hours per day, six days a week.

9 The department shall adopt rules for the safe and effective
10 operation of the juvenile offender basic training camp program,
11 standards for an offender's successful program completion, and rules
12 for the continued after-care supervision of offenders who have
13 successfully completed the program.

14 (5) Offenders eligible for the juvenile offender basic training
15 camp option shall be those with a disposition of not more than
16 (~~seventy-eight~~) sixty-five weeks. Violent and sex offenders shall
17 not be eligible for the juvenile offender basic training camp program.

18 (6) If the court determines that the offender is eligible for the
19 juvenile offender basic training camp option, the court may recommend
20 that the department place the offender in the program. The department
21 shall evaluate the offender and may place the offender in the program.
22 The evaluation shall include, at a minimum, a risk assessment developed
23 by the department and designed to determine the offender's suitability
24 for the program. No juvenile who is assessed as a high risk offender
25 or suffers from any mental or physical problems that could endanger his
26 or her health or drastically affect his or her performance in the
27 program shall be admitted to or retained in the juvenile offender basic
28 training camp program.

29 (7) All juvenile offenders eligible for the juvenile offender basic
30 training camp sentencing option shall spend one hundred twenty days of
31 their disposition in a juvenile offender basic training camp. If the
32 juvenile offender's activities while in the juvenile offender basic
33 training camp are so disruptive to the juvenile offender basic training
34 camp program, as determined by the secretary according to rules adopted
35 by the department, as to result in the removal of the juvenile offender
36 from the juvenile offender basic training camp program, (~~or if the~~
37 ~~offender cannot complete the juvenile offender basic training camp~~
38 ~~program due to medical problems,~~) the secretary shall require that the
39 offender be committed to a juvenile institution to serve the entire

1 (~~(remainder)~~) standard range of his or her disposition(~~(, less the~~
2 ~~amount of time already served in the juvenile offender basic training~~
3 ~~camp program)~~). If the offender cannot complete the juvenile offender
4 basic training camp program due to a medical problem, the secretary
5 shall require that the offender be committed to a juvenile institution
6 to serve the entire remainder of his or her disposition.

7 (8) All offenders who successfully graduate from the one hundred
8 twenty day juvenile offender basic training camp program shall spend
9 the remainder of their disposition on parole in a division of juvenile
10 rehabilitation intensive aftercare program in the local community. The
11 program shall provide for the needs of the offender based on his or her
12 progress in the aftercare program as indicated by ongoing assessment of
13 those needs and progress. The program shall make available
14 prevocational training, conflict resolution, anger management
15 counseling, and substance abuse intervention and treatment. The
16 intensive aftercare program shall monitor postprogram juvenile
17 offenders and assist them to successfully reintegrate into the
18 community. In addition, the program shall develop a process for
19 closely monitoring and assessing public safety risks. The intensive
20 aftercare program shall be designed and funded by the department of
21 social and health services.

22 (9) The department shall also develop and maintain a data base to
23 measure recidivism rates specific to this incarceration program. The
24 data base shall maintain data on all juvenile offenders who complete
25 the juvenile offender basic training camp program for a period of two
26 years after they have completed the program. The data base shall also
27 maintain data on the criminal activity, educational progress, and
28 employment activities of all juvenile offenders who participated in the
29 program. (~~The department shall produce an outcome evaluation report~~
30 ~~on the progress of the juvenile offender basic training camp program to~~
31 ~~the appropriate committees of the legislature no later than December~~
32 ~~12, 1996.)")~~

33 Renumber the sections consecutively and correct any internal
34 references accordingly.

35 **E3SHB 3900** - S AMD TO S AMD (S-3222.1) - 439
36 By Senators Zarelli, Long and Roach

ADOPTED 4/16/97

1 On page 105, line 17, after "(d)", strike all material through
2 "RCW" on line 18, and "The person has not been convicted of a sex
3 offense"

--- END ---