
HOUSE BILL 2790

State of Washington 55th Legislature 1998 Regular Session

By Representatives Mastin, Sheahan, Costa and Lambert

Read first time 01/20/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to restitution hearings for juvenile offenders;
2 amending RCW 13.40.150; and providing an effective date.

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

4 **Sec. 1.** RCW 13.40.150 and 1997 c 338 s 24 are each amended to read
5 as follows:

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

16 (2) For purposes of disposition:

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

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

1 (c) In no event may a disposition for a violation include
2 confinement.

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

6 (a) Consider the facts supporting the allegations of criminal
7 conduct by the respondent;

8 (b) Consider information and arguments offered by parties and their
9 counsel;

10 (c) Consider any predisposition reports;

11 (d) Consult with the respondent's parent, guardian, or custodian on
12 the appropriateness of dispositional options under consideration and
13 afford the respondent and the respondent's parent, guardian, or
14 custodian an opportunity to speak in the respondent's behalf;

15 (e) Allow the victim or a representative of the victim and an
16 investigative law enforcement officer to speak;

17 (f) Determine the amount of restitution owing to the victim, if
18 any, or set a hearing for a later date not to exceed one hundred eighty
19 days from the date of the disposition hearing to determine the amount;

20 (g) Determine the respondent's offender score;

21 (h) Consider whether or not any of the following mitigating factors
22 exist:

23 (i) The respondent's conduct neither caused nor threatened serious
24 bodily injury or the respondent did not contemplate that his or her
25 conduct would cause or threaten serious bodily injury;

26 (ii) The respondent acted under strong and immediate provocation;

27 (iii) The respondent was suffering from a mental or physical
28 condition that significantly reduced his or her culpability for the
29 offense though failing to establish a defense;

30 (iv) Prior to his or her detection, the respondent compensated or
31 made a good faith attempt to compensate the victim for the injury or
32 loss sustained; and

33 (v) There has been at least one year between the respondent's
34 current offense and any prior criminal offense;

35 (i) Consider whether or not any of the following aggravating
36 factors exist:

37 (i) In the commission of the offense, or in flight therefrom, the
38 respondent inflicted or attempted to inflict serious bodily injury to
39 another;

1 (ii) The offense was committed in an especially heinous, cruel, or
2 depraved manner;

3 (iii) The victim or victims were particularly vulnerable;

4 (iv) The respondent has a recent criminal history or has failed to
5 comply with conditions of a recent dispositional order or diversion
6 agreement;

7 (v) The current offense included a finding of sexual motivation
8 pursuant to RCW 13.40.135;

9 (vi) The respondent was the leader of a criminal enterprise
10 involving several persons;

11 (vii) There are other complaints which have resulted in diversion
12 or a finding or plea of guilty but which are not included as criminal
13 history; and

14 (viii) The standard range disposition is clearly too lenient
15 considering the seriousness of the juvenile's prior adjudications.

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

18 (a) The sex of the respondent;

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

20 (c) The creed or religion of the respondent or the respondent's
21 family;

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

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

26 (5) A court may not commit a juvenile to a state institution solely
27 because of the lack of facilities, including treatment facilities,
28 existing in the community.

29 NEW SECTION. **Sec. 2.** This act takes effect July 1, 1998.

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