

2 **ESB 5692 - H COMM AMD Not Adopted March 7, 2002**

3 By Committee on Juvenile Justice & Family Law

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Court" when used without further qualification means the
10 district court under chapter 3.30 RCW, the municipal department under
11 chapter 3.46 RCW, or the municipal court under chapter 3.50 or 35.20
12 RCW.

13 (2) "Traffic infraction" means those acts defined as traffic
14 infractions by RCW 46.63.020.

15 (3) "Youth court" means an alternative method of hearing and
16 disposing of traffic infractions for juveniles age sixteen or
17 seventeen.

18 NEW SECTION. **Sec. 2.** (1) A court created under chapter 3.30,
19 3.46, 3.50, or 35.20 RCW may create a youth court. The youth court
20 shall have jurisdiction over traffic infractions alleged to have been
21 committed by juveniles age sixteen or seventeen. The court may refer
22 a juvenile to the youth court upon request of any party or upon its own
23 motion. However, a juvenile shall not be required under this section
24 to have his or her traffic infraction referred to or disposed of by a
25 youth court.

26 (2) To be referred to a youth court, a juvenile:

27 (a) May not have had a prior traffic infraction referred to a youth
28 court;

29 (b) May not be under the jurisdiction of any court for a violation
30 of any provision of Title 46 RCW;

31 (c) May not have any convictions for a violation of any provision
32 of Title 46 RCW; and

33 (d) Must acknowledge that there is a high likelihood that he or she
34 would be found to have committed the traffic infraction.

1 NEW SECTION. **Sec. 3.** (1) A youth court agreement shall be a
2 contract between a juvenile accused of a traffic infraction and a court
3 whereby the juvenile agrees to fulfill certain conditions imposed by a
4 youth court in lieu of a determination that a traffic infraction
5 occurred. Such agreements may be entered into only after the law
6 enforcement authority has determined that probable cause exists to
7 believe that a traffic infraction has been committed and that the
8 juvenile committed it. A youth court agreement shall be reduced to
9 writing and signed by the court and the youth accepting the terms of
10 the agreement. Such agreements shall be entered into as expeditiously
11 as possible.

12 (2) Conditions imposed on a juvenile by a youth court shall be
13 limited to one or more of the following:

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

16 (b) Attendance at defensive driving school or driver improvement
17 education classes or, in the discretion of the court, a like means of
18 fulfilling this condition. The state shall not be liable for costs
19 resulting from the youth court or the conditions imposed upon the
20 juvenile by the youth court;

21 (c) A monetary penalty, not to exceed one hundred dollars. In
22 determining the amount of the monetary penalty, the youth court shall
23 consider only the juvenile's financial resources and whether the
24 juvenile has the means to pay the monetary penalty. The youth court
25 shall not consider the financial resources of the juvenile's parents,
26 guardian, or custodian in determining the monetary penalty to be
27 imposed. All monetary penalties assessed and collected under this
28 section shall be deposited and distributed in the same manner as costs,
29 fines, forfeitures, and penalties are assessed and collected under RCW
30 2.68.040, 3.46.120, 3.50.100, 3.62.020, 3.62.040, 35.20.220, and
31 46.63.110(6), regardless of the juvenile's successful or unsuccessful
32 completion of the youth court agreement;

33 (d) Requirements to remain during specified hours at home, school,
34 or work, and restrictions on leaving or entering specified geographical
35 areas;

36 (e) Participating in law-related education classes;

37 (f) Providing periodic reports to the youth court or the court;

38 (g) Participating in mentoring programs;

39 (h) Serving as a participant in future youth court proceedings;

1 (i) Writing apology letters; or

2 (j) Writing essays.

3 (3) Youth courts may require that the youth pay any costs
4 associated with conditions imposed upon the youth by the youth court.

5 (a) A youth court disposition shall be completed within one hundred
6 eighty days from the date of referral.

7 (b) The court, as specified in section 2 of this act, shall monitor
8 the successful or unsuccessful completion of the disposition.

9 (4) A youth court agreement may extend beyond the eighteenth
10 birthday of the youth.

11 (5) Any juvenile who is, or may be, referred to a youth court shall
12 be afforded due process in all contacts with the youth court regardless
13 of whether the juvenile is accepted by the youth court or whether the
14 youth court program is successfully completed. Such due process shall
15 include, but not be limited to, the following:

16 (a) A written agreement shall be executed stating all conditions in
17 clearly understandable language and the action that will be taken by
18 the court upon successful or unsuccessful completion of the agreement;

19 (b) Violation of the terms of the agreement shall be the only
20 grounds for termination.

21 (6) The youth court shall, subject to available funds, be
22 responsible for providing interpreters when juveniles need interpreters
23 to effectively communicate during youth court hearings or negotiations.

24 (7) The court shall be responsible for advising a juvenile of his
25 or her rights as provided in this chapter.

26 (8) When a juvenile enters into a youth court agreement, the court
27 may receive only the following information for dispositional purposes:

28 (a) The fact that a traffic infraction was alleged to have been
29 committed;

30 (b) The fact that a youth court agreement was entered into;

31 (c) The juvenile's obligations under such agreement;

32 (d) Whether the juvenile performed his or her obligations under
33 such agreement; and

34 (e) The facts of the alleged traffic infraction.

35 (9) A court may refuse to enter into a youth court agreement with
36 a juvenile. When a court refuses to enter a youth court agreement with
37 a juvenile, it shall set the matter for hearing in accordance with all
38 applicable court rules and statutory provisions governing the hearing
39 and disposition of traffic infractions.

1 (10) If a monetary penalty required by a youth court agreement
2 cannot reasonably be paid due to a lack of financial resources of the
3 youth, the court may convert any or all of the monetary penalty into
4 community service. The modification of the youth court agreement shall
5 be in writing and signed by the juvenile and the court. The number of
6 hours of community service in lieu of a monetary penalty shall be
7 converted at the rate of the prevailing state minimum wage per hour.

8 NEW SECTION. **Sec. 4.** Youth courts provide a disposition method
9 for cases involving juveniles alleged to have committed traffic
10 infractions, in which participants, under the supervision of the court,
11 may serve in various capacities within the youth court, acting in the
12 role of jurors, lawyers, bailiffs, clerks, and judges. Youth courts
13 have no jurisdiction except as provided for in this chapter. Youth
14 courts are not courts established under Article IV of the state
15 Constitution.

16 NEW SECTION. **Sec. 5.** The administrative office of the courts
17 shall encourage the courts to work with cities, counties, and schools
18 to implement, expand, or use youth court programs for juveniles who
19 commit traffic infractions. Program operations of youth court programs
20 may be funded by government and private grants. Youth court programs
21 are limited to those that:

22 (1) Are developed using the guidelines for creating and operating
23 youth court programs developed by nationally recognized experts in
24 youth court projects;

25 (2) Target youth ages sixteen and seventeen who are alleged to have
26 committed a traffic infraction; and

27 (3) Emphasize the following principles:

28 (a) Youth must be held accountable for their problem behavior;

29 (b) Youth must be educated about the impact their actions have on
30 themselves and others including their victims, their families, and
31 their community;

32 (c) Youth must develop skills to resolve problems with their peers
33 more effectively; and

34 (d) Youth should be provided a meaningful forum to practice and
35 enhance newly developed skills.

1 NEW SECTION. **Sec. 6.** A court may require that a youth pay a
2 nonrefundable fee, not exceeding thirty dollars, to cover the costs of
3 administering the program. The fee may be reduced or waived for a
4 participant. Fees shall be paid to and accounted for by the court.
5 The fees collected under this section shall not constitute "certain
6 costs" as defined in RCW 3.46.120(2), 3.50.100(2), 3.62.020(2),
7 3.62.040(2), and 35.20.220(2).

8 **Sec. 7.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to read
9 as follows:

10 For the purposes of this chapter:

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

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

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

23 (b) Community service not to exceed one hundred fifty hours of
24 service;

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

30 (4) "Community supervision" means an order of disposition by the
31 court of an adjudicated youth not committed to the department or an
32 order granting a deferred disposition. A community supervision order
33 for a single offense may be for a period of up to two years for a sex
34 offense as defined by RCW 9.94A.030 and up to one year for other
35 offenses. As a mandatory condition of any term of community
36 supervision, the court shall order the juvenile to refrain from
37 committing new offenses. As a mandatory condition of community
38 supervision, the court shall order the juvenile to comply with the

1 mandatory school attendance provisions of chapter 28A.225 RCW and to
2 inform the school of the existence of this requirement. Community
3 supervision is an individualized program comprised of one or more of
4 the following:

5 (a) Community-based sanctions;

6 (b) Community-based rehabilitation;

7 (c) Monitoring and reporting requirements;

8 (d) Posting of a probation bond;

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

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

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

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

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

34 (8) "Department" means the department of social and health
35 services;

36 (9) "Detention facility" means a county facility, paid for by the
37 county, for the physical confinement of a juvenile alleged to have
38 committed an offense or an adjudicated offender subject to a
39 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 into
4 a diversion agreement with an alleged youthful offender, or any other
5 person, community accountability board, youth 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 family
22 home or group care facility as defined in RCW 74.15.020 and licensed by
23 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 security
20 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 have
27 committed an offense;

28 (22) "Restitution" means financial reimbursement by the offender to
29 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 RCW
9 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 an
18 adult, must be proven beyond a reasonable doubt, and is punishable by
19 sanctions which do not include incarceration;

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

22 (30) "Youth court" means a diversion unit under the supervision of
23 the juvenile court.

24 **Sec. 8.** RCW 13.40.080 and 1999 c 91 s 1 are each amended to read
25 as follows:

26 (1) A diversion agreement shall be a contract between a juvenile
27 accused of an offense and a (~~diversionary~~) diversion unit whereby the
28 juvenile agrees to fulfill certain conditions in lieu of prosecution.
29 Such agreements may be entered into only after the prosecutor, or
30 probation counselor pursuant to this chapter, has determined that
31 probable cause exists to believe that a crime has been committed and
32 that the juvenile committed it. Such agreements shall be entered into
33 as expeditiously as possible.

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

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

1 (b) Restitution limited to the amount of actual loss incurred by
2 ((the)) any victim;

3 (c) Attendance at up to ten hours of counseling and/or up to twenty
4 hours of educational or informational sessions at a community agency.
5 The educational or informational sessions may include sessions relating
6 to respect for self, others, and authority; victim awareness;
7 accountability; self-worth; responsibility; work ethics; good
8 citizenship; literacy; and life skills. For purposes of this section,
9 "community agency" may also mean a community-based nonprofit
10 organization, if approved by the diversion unit. The state shall not
11 be liable for costs resulting from the ((diversionary)) diversion unit
12 exercising the option to permit diversion agreements to mandate
13 attendance at up to ten hours of counseling and/or up to twenty hours
14 of educational or informational sessions;

15 (d) A fine, not to exceed one hundred dollars. In determining the
16 amount of the fine, the diversion unit shall consider only the
17 juvenile's financial resources and whether the juvenile has the means
18 to pay the fine. The diversion unit shall not consider the financial
19 resources of the juvenile's parents, guardian, or custodian in
20 determining the fine to be imposed;

21 (e) Requirements to remain during specified hours at home, school,
22 or work, and restrictions on leaving or entering specified geographical
23 areas; and

24 (f) Upon request of ((the)) any victim or witness, requirements to
25 refrain from any contact with victims or witnesses of offenses
26 committed by the juvenile.

27 (3) Notwithstanding the provisions of subsection (2) of this
28 section, youth courts are not limited to the conditions imposed by
29 subsection (2) of this section in imposing sanctions on juveniles
30 pursuant to section 14 of this act.

31 (4) In assessing periods of community service to be performed and
32 restitution to be paid by a juvenile who has entered into a diversion
33 agreement, the court officer to whom this task is assigned shall
34 consult with the juvenile's custodial parent or parents or guardian and
35 victims who have contacted the ((diversionary)) diversion unit and, to
36 the extent possible, involve members of the community. Such members of
37 the community shall meet with the juvenile and advise the court officer
38 as to the terms of the diversion agreement and shall supervise the
39 juvenile in carrying out its terms.

1 (~~(4)~~) (5)(a) A diversion agreement may not exceed a period of six
2 months and may include a period extending beyond the eighteenth
3 birthday of the diverttee.

4 (b) If additional time is necessary for the juvenile to complete
5 restitution to (~~the~~) a victim, the time period limitations of this
6 subsection may be extended by an additional six months.

7 (c) If the juvenile has not paid the full amount of restitution by
8 the end of the additional six-month period, then the juvenile shall be
9 referred to the juvenile court for entry of an order establishing the
10 amount of restitution still owed to the victim. In this order, the
11 court shall also determine the terms and conditions of the restitution,
12 including a payment plan extending up to ten years if the court
13 determines that the juvenile does not have the means to make full
14 restitution over a shorter period. For the purposes of this subsection
15 (~~(4)~~) (5)(c), the juvenile shall remain under the court's
16 jurisdiction for a maximum term of ten years after the juvenile's
17 eighteenth birthday. Prior to the expiration of the initial ten-year
18 period, the juvenile court may extend the judgment for restitution an
19 additional ten years. The court may not require the juvenile to pay
20 full or partial restitution if the juvenile reasonably satisfies the
21 court that he or she does not have the means to make full or partial
22 restitution and could not reasonably acquire the means to pay the
23 restitution over a ten-year period. The county clerk shall make
24 disbursements to victims named in the order. The restitution to
25 victims named in the order shall be paid prior to any payment for other
26 penalties or monetary assessments. A juvenile under obligation to pay
27 restitution may petition the court for modification of the restitution
28 order.

29 (~~(5)~~) (6) The juvenile shall retain the right to be referred to
30 the court at any time prior to the signing of the diversion agreement.

31 (~~(6)~~) (7) Diverttees and potential diverttees shall be afforded due
32 process in all contacts with a (~~diversionary~~) diversion unit
33 regardless of whether the juveniles are accepted for diversion or
34 whether the diversion program is successfully completed. Such due
35 process shall include, but not be limited to, the following:

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

38 (b) Violation of the terms of the agreement shall be the only
39 grounds for termination;

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

3 (i) Written notice of alleged violations of the conditions of the
4 diversion program; and

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

6 (d) The hearing shall be conducted by the juvenile court and shall
7 include:

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

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

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

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

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

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

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

20 ~~((+7))~~ (8) The diversion unit shall, subject to available funds,
21 be responsible for providing interpreters when juveniles need
22 interpreters to effectively communicate during diversion unit hearings
23 or negotiations.

24 ~~((+8))~~ (9) The diversion unit shall be responsible for advising a
25 divertee of his or her rights as provided in this chapter.

26 ~~((+9))~~ (10) The diversion unit may refer a juvenile to community-
27 based counseling or treatment programs.

28 ~~((+10))~~ (11) The right to counsel shall inure prior to the initial
29 interview for purposes of advising the juvenile as to whether he or she
30 desires to participate in the diversion process or to appear in the
31 juvenile court. The juvenile may be represented by counsel at any
32 critical stage of the diversion process, including intake interviews
33 and termination hearings. The juvenile shall be fully advised at the
34 intake of his or her right to an attorney and of the relevant services
35 an attorney can provide. For the purpose of this section, intake
36 interviews mean all interviews regarding the diversion agreement
37 process.

38 The juvenile shall be advised that a diversion agreement shall
39 constitute a part of the juvenile's criminal history as defined by RCW

1 13.40.020(7). A signed acknowledgment of such advisement shall be
2 obtained from the juvenile, and the document shall be maintained by the
3 (~~(diversionary)~~) diversion unit together with the diversion agreement,
4 and a copy of both documents shall be delivered to the prosecutor if
5 requested by the prosecutor. The supreme court shall promulgate rules
6 setting forth the content of such advisement in simple language.

7 (~~(11)~~) (12) When a juvenile enters into a diversion agreement,
8 the juvenile court may receive only the following information for
9 dispositional purposes:

- 10 (a) The fact that a charge or charges were made;
- 11 (b) The fact that a diversion agreement was entered into;
- 12 (c) The juvenile's obligations under such agreement;
- 13 (d) Whether the alleged offender performed his or her obligations
14 under such agreement; and
- 15 (e) The facts of the alleged offense.

16 (~~(12)~~) (13) A (~~(diversionary)~~) diversion unit may refuse to enter
17 into a diversion agreement with a juvenile. When a (~~(diversionary)~~)
18 diversion unit refuses to enter a diversion agreement with a juvenile,
19 it shall immediately refer such juvenile to the court for action and
20 shall forward to the court the criminal complaint and a detailed
21 statement of its reasons for refusing to enter into a diversion
22 agreement. The (~~(diversionary)~~) diversion unit shall also immediately
23 refer the case to the prosecuting attorney for action if such juvenile
24 violates the terms of the diversion agreement.

25 (~~(13)~~) (14) A (~~(diversionary)~~) diversion unit may, in instances
26 where it determines that the act or omission of an act for which a
27 juvenile has been referred to it involved no victim, or where it
28 determines that the juvenile referred to it has no prior criminal
29 history and is alleged to have committed an illegal act involving no
30 threat of or instance of actual physical harm and involving not more
31 than fifty dollars in property loss or damage and that there is no loss
32 outstanding to the person or firm suffering such damage or loss,
33 counsel and release or release such a juvenile without entering into a
34 diversion agreement. A diversion unit's authority to counsel and
35 release a juvenile under this subsection (~~(shall)~~) includes the
36 authority to refer the juvenile to community-based counseling or
37 treatment programs. Any juvenile released under this subsection shall
38 be advised that the act or omission of any act for which he or she had
39 been referred shall constitute a part of the juvenile's criminal

1 history as defined by RCW 13.40.020(7). A signed acknowledgment of
2 such advisement shall be obtained from the juvenile, and the document
3 shall be maintained by the unit, and a copy of the document shall be
4 delivered to the prosecutor if requested by the prosecutor. The
5 supreme court shall promulgate rules setting forth the content of such
6 advisement in simple language. A juvenile determined to be eligible by
7 a (~~(diversionary)~~) diversion unit for release as provided in this
8 subsection shall retain the same right to counsel and right to have his
9 or her case referred to the court for formal action as any other
10 juvenile referred to the unit.

11 (~~(14)~~) (15) A diversion unit may supervise the fulfillment of a
12 diversion agreement entered into before the juvenile's eighteenth
13 birthday and which includes a period extending beyond the divertee's
14 eighteenth birthday.

15 (~~(15)~~) (16) If a fine required by a diversion agreement cannot
16 reasonably be paid due to a change of circumstance, the diversion
17 agreement may be modified at the request of the divertee and with the
18 concurrence of the diversion unit to convert an unpaid fine into
19 community service. The modification of the diversion agreement shall
20 be in writing and signed by the divertee and the diversion unit. The
21 number of hours of community service in lieu of a monetary penalty
22 shall be converted at the rate of the prevailing state minimum wage per
23 hour.

24 (~~(16)~~) (17) Fines imposed under this section shall be collected
25 and paid into the county general fund in accordance with procedures
26 established by the juvenile court administrator under RCW 13.04.040 and
27 may be used only for juvenile services. In the expenditure of funds
28 for juvenile services, there shall be a maintenance of effort whereby
29 counties exhaust existing resources before using amounts collected
30 under this section.

31 NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW
32 to read as follows:

33 Youth courts provide a diversion for cases involving juvenile
34 offenders, in which participants, under the supervision of an adult
35 coordinator, may serve in various capacities within the program, acting
36 in the role of jurors, lawyers, bailiffs, clerks, and judges. Youths
37 who appear before youth courts are youths eligible for diversion
38 pursuant to RCW 13.40.070 (6) and (7). Youth courts have no

1 jurisdiction except as provided for in this act. Youth courts are
2 diversion units and not courts established under Article IV of the
3 state Constitution.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 13.40 RCW
5 to read as follows:

6 (1) The administrative office of the courts shall encourage the
7 juvenile courts to work with cities and counties to implement, expand,
8 or use youth court programs for juveniles who commit diversion-eligible
9 offenses, civil, or traffic infractions. Program operations of youth
10 court programs may be funded by government and private grants. Youth
11 court programs are limited to those that:

12 (a) Are developed using the guidelines for creating and operating
13 youth court programs developed by nationally recognized experts in
14 youth court projects;

15 (b) Target offenders age eight through seventeen; and

16 (c) Emphasize the following principles:

17 (i) Youth must be held accountable for their problem behavior;

18 (ii) Youth must be educated about the impact their actions have on
19 themselves and others including their victims, their families, and
20 their community;

21 (iii) Youth must develop skills to resolve problems with their
22 peers more effectively; and

23 (iv) Youth should be provided a meaningful forum to practice and
24 enhance newly developed skills.

25 (2) Youth court programs under this section may be established by
26 private nonprofit organizations and schools, upon prior approval and
27 under the supervision of juvenile court.

28 NEW SECTION. **Sec. 11.** A new section is added to chapter 13.40 RCW
29 to read as follows:

30 (1) Youth courts have authority over juveniles ages eight through
31 seventeen who:

32 (a) Along with their parent, guardian, or legal custodian,
33 voluntarily and in writing request youth court involvement;

34 (b) Admit they have committed the offense they are referred for;

35 (c) Along with their parent, guardian, or legal custodian, waive
36 any privilege against self-incrimination concerning the offense; and

1 (d) Along with their parent, guardian, or legal custodian, agree to
2 comply with the youth court disposition of the case.

3 (2) Youth courts shall not exercise authority over youth who are
4 under the continuing jurisdiction of the juvenile court for law
5 violations, including a youth with a matter pending before the juvenile
6 court but which has not yet been adjudicated.

7 (3) Youth courts may decline to accept a youth for youth court
8 disposition for any reason and may terminate a youth from youth court
9 participation at any time.

10 (4) A youth or his or her parent, guardian, or legal custodian may
11 withdraw from the youth court process at any time.

12 (5) Youth courts shall give any victims of a juvenile the
13 opportunity to be notified, present, and heard in any youth court
14 proceeding.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 13.40 RCW
16 to read as follows:

17 Youth court may not notify the juvenile court of satisfaction of
18 conditions until all ordered restitution has been paid.

19 NEW SECTION. **Sec. 13.** A new section is added to chapter 13.40 RCW
20 to read as follows:

21 Every youth appearing before a youth court shall be accompanied by
22 his or her parent, guardian, or legal custodian.

23 NEW SECTION. **Sec. 14.** A new section is added to chapter 13.40 RCW
24 to read as follows:

25 (1) Youth court dispositional options include those delineated in
26 RCW 13.40.080, and may also include:

27 (a) Participating in law-related education classes, appropriate
28 counseling, treatment, or other education programs;

29 (b) Providing periodic reports to the youth court;

30 (c) Participating in mentoring programs;

31 (d) Serving as a participant in future youth court proceedings;

32 (e) Writing apology letters; or

33 (f) Writing essays.

34 (2) Youth courts shall not impose a term of confinement or
35 detention. Youth courts may require that the youth pay reasonable fees

1 to participate in youth court and in classes, counseling, treatment, or
2 other educational programs that are the disposition of the youth court.

3 (3) A youth court disposition shall be completed within one hundred
4 eighty days from the date of referral.

5 (4) Pursuant to RCW 13.40.080(1), a youth court disposition shall
6 be reduced to writing and signed by the youth and his or her parent,
7 guardian, or legal custodian accepting the disposition terms.

8 (5) Youth court shall notify the juvenile court upon successful or
9 unsuccessful completion of the disposition.

10 (6) Youth court shall notify the prosecutor or probation counselor
11 of a failure to successfully complete the youth court disposition.

12 NEW SECTION. **Sec. 15.** A new section is added to chapter 13.40 RCW
13 to read as follows:

14 A youth court may require that a youth pay a nonrefundable fee, not
15 exceeding thirty dollars, to cover the costs of administering the
16 program. The fee may be reduced or waived for a participant. Fees
17 shall be paid to and accounted for by the youth court.

18 **Sec. 16.** RCW 9.94A.850 and 2000 c 28 s 41 are each amended to read
19 as follows:

20 (1) A sentencing guidelines commission is established as an agency
21 of state government.

22 (2) The legislature finds that the commission, having accomplished
23 its original statutory directive to implement this chapter, and having
24 expertise in sentencing practice and policies, shall:

25 (a) Evaluate state sentencing policy, to include whether the
26 sentencing ranges and standards are consistent with and further:

27 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

28 (ii) The intent of the legislature to emphasize confinement for the
29 violent offender and alternatives to confinement for the nonviolent
30 offender.

31 The commission shall provide the governor and the legislature with
32 its evaluation and recommendations under this subsection not later than
33 December 1, 1996, and every two years thereafter;

34 (b) Recommend to the legislature revisions or modifications to the
35 standard sentence ranges, state sentencing policy, prosecuting
36 standards, and other standards. If implementation of the revisions or
37 modifications would result in exceeding the capacity of correctional

1 facilities, then the commission shall accompany its recommendation with
2 an additional list of standard sentence ranges which are consistent
3 with correction capacity;

4 (c) Study the existing criminal code and from time to time make
5 recommendations to the legislature for modification;

6 (d)(i) Serve as a clearinghouse and information center for the
7 collection, preparation, analysis, and dissemination of information on
8 state and local adult and juvenile sentencing practices; (ii) develop
9 and maintain a computerized adult and juvenile sentencing information
10 system by individual superior court judge consisting of offender,
11 offense, history, and sentence information entered from judgment and
12 sentence forms for all adult felons; and (iii) conduct ongoing research
13 regarding adult and juvenile sentencing guidelines, use of total
14 confinement and alternatives to total confinement, plea bargaining, and
15 other matters relating to the improvement of the adult criminal justice
16 system and the juvenile justice system;

17 (e) Assume the powers and duties of the juvenile disposition
18 standards commission after June 30, 1996;

19 (f) Evaluate the effectiveness of existing disposition standards
20 and related statutes in implementing policies set forth in RCW
21 13.40.010 generally, specifically review the guidelines relating to the
22 confinement of minor and first-time offenders as well as the use of
23 diversion, and review the application of current and proposed juvenile
24 sentencing standards and guidelines for potential adverse impacts on
25 the sentencing outcomes of racial and ethnic minority youth;

26 (g) Solicit the comments and suggestions of the juvenile justice
27 community concerning disposition standards, and make recommendations to
28 the legislature regarding revisions or modifications of the standards.
29 The evaluations shall be submitted to the legislature on December 1 of
30 each odd-numbered year. The department of social and health services
31 shall provide the commission with available data concerning the
32 implementation of the disposition standards and related statutes and
33 their effect on the performance of the department's responsibilities
34 relating to juvenile offenders, and with recommendations for
35 modification of the disposition standards. The office of the
36 administrator for the courts shall provide the commission with
37 available data on diversion, including the use of youth court programs,
38 and dispositions of juvenile offenders under chapter 13.40 RCW; and

1 (h) Not later than December 1, 1997, and at least every two years
2 thereafter, based on available information, report to the governor and
3 the legislature on:

4 (i) Racial disproportionality in juvenile and adult sentencing,
5 and, if available, the impact that diversions, such as youth courts,
6 have on racial disproportionality in juvenile prosecution,
7 adjudication, and sentencing;

8 (ii) The capacity of state and local juvenile and adult facilities
9 and resources; and

10 (iii) Recidivism information on adult and juvenile offenders.

11 (3) Each of the commission's recommended standard sentence ranges
12 shall include one or more of the following: Total confinement, partial
13 confinement, community supervision, community service, and a fine.

14 (4) The standard sentence ranges of total and partial confinement
15 under this chapter are subject to the following limitations:

16 (a) If the maximum term in the range is one year or less, the
17 minimum term in the range shall be no less than one-third of the
18 maximum term in the range, except that if the maximum term in the range
19 is ninety days or less, the minimum term may be less than one-third of
20 the maximum;

21 (b) If the maximum term in the range is greater than one year, the
22 minimum term in the range shall be no less than seventy-five percent of
23 the maximum term in the range, except that for murder in the second
24 degree in seriousness level XIV under RCW 9.94A.510, the minimum term
25 in the range shall be no less than fifty percent of the maximum term in
26 the range; and

27 (c) The maximum term of confinement in a range may not exceed the
28 statutory maximum for the crime as provided in RCW 9A.20.021.

29 (5)(a) Not later than December 31, 1999, the commission shall
30 propose to the legislature the initial community custody ranges to be
31 included in sentences under RCW 9.94A.715 for crimes committed on or
32 after July 1, 2000. Not later than December 31 of each year, the
33 commission may propose modifications to the ranges. The ranges shall
34 be based on the principles in RCW 9.94A.010, and shall take into
35 account the funds available to the department for community custody.
36 The minimum term in each range shall not be less than one-half of the
37 maximum term.

38 (b) The legislature may, by enactment of a legislative bill, adopt
39 or modify the community custody ranges proposed by the commission. If

1 the legislature fails to adopt or modify the initial ranges in its next
2 regular session after they are proposed, the proposed ranges shall take
3 effect without legislative approval for crimes committed on or after
4 July 1, 2000.

5 (c) When the commission proposes modifications to ranges pursuant
6 to this subsection, the legislature may, by enactment of a bill, adopt
7 or modify the ranges proposed by the commission for crimes committed on
8 or after July 1 of the year after they were proposed. Unless the
9 legislature adopts or modifies the commission's proposal in its next
10 regular session, the proposed ranges shall not take effect.

11 (6) The commission shall exercise its duties under this section in
12 conformity with chapter 34.05 RCW.

13 NEW SECTION. **Sec. 17.** A new section is added to chapter 28A.300
14 RCW to read as follows:

15 The office of the superintendent of public instruction shall
16 encourage school districts to implement, expand, or use student court
17 programs for students who commit violations of school rules and
18 policies. Program operations of student courts may be funded by
19 government and private grants. Student court programs are limited to
20 those that:

21 (1) Are developed using the guidelines for creating and operating
22 student court programs developed by nationally recognized student court
23 projects;

24 (2) Target violations of school rules by students enrolled in
25 public or private school; and

26 (3) Emphasize the following principles:

27 (a) Youth must be held accountable for their problem behavior;

28 (b) Youth must be educated about the impact their actions have on
29 themselves and others including the school, school personnel, their
30 classmates, their families, and their community;

31 (c) Youth must develop skills to resolve problems with their peers
32 more effectively; and

33 (d) Youth should be provided a meaningful forum to practice and
34 enhance newly developed skills.

35 NEW SECTION. **Sec. 18.** A new section is added to chapter 28A.320
36 RCW to read as follows:

1 Local school boards may provide for school credit for participation
2 as a member of a youth court as defined in section 1 of this act or RCW
3 13.40.020 or a student court pursuant to section 17 of this act.

4 **Sec. 19.** RCW 13.40.250 and 1997 c 338 s 36 are each amended to
5 read as follows:

6 A traffic or civil infraction case involving a juvenile under the
7 age of sixteen may be diverted in accordance with the provisions of
8 this chapter or filed in juvenile court.

9 (1) If a notice of a traffic or civil infraction is filed in
10 juvenile court, the juvenile named in the notice shall be afforded the
11 same due process afforded to adult defendants in traffic infraction
12 cases.

13 (2) A monetary penalty imposed upon a juvenile under the age of
14 sixteen who is found to have committed a traffic or civil infraction
15 may not exceed one hundred dollars. At the juvenile's request, the
16 court may order performance of a number of hours of community service
17 in lieu of a monetary penalty, at the rate of the prevailing state
18 minimum wage per hour.

19 (3) A diversion agreement entered into by a juvenile referred
20 pursuant to this section shall be limited to thirty hours of community
21 service, or educational or informational sessions.

22 (4) Traffic or civil infractions referred to a youth court pursuant
23 to this section are subject to the conditions imposed by section 14 of
24 this act.

25 (5) If a case involving the commission of a traffic or civil
26 infraction or offense by a juvenile under the age of sixteen has been
27 referred to a diversion unit, an abstract of the action taken by the
28 diversion unit may be forwarded to the department of licensing in the
29 manner provided for in RCW 46.20.270(2).

30 **Sec. 20.** RCW 46.63.040 and 1984 c 258 s 137 are each amended to
31 read as follows:

32 (1) All violations of state law, local law, ordinance, regulation,
33 or resolution designated as traffic infractions in RCW 46.63.020 may be
34 heard and determined by a district court, except as otherwise provided
35 in this section.

36 (2) Any municipal court has the authority to hear and determine
37 traffic infractions pursuant to this chapter.

1 (3) Any city or town with a municipal court may contract with the
2 county to have traffic infractions committed within the city or town
3 adjudicated by a district court.

4 (4) District court commissioners have the authority to hear and
5 determine traffic infractions pursuant to this chapter.

6 (5) Any district or municipal court may refer juveniles age sixteen
7 or seventeen who are enrolled in school to a youth court, as defined in
8 section 1 of this act or RCW 13.40.020, for traffic infractions.

9 (6) The boards of regents of the state universities, and the boards
10 of trustees of the regional universities and of The Evergreen State
11 College have the authority to hear and determine traffic infractions
12 under RCW 28B.10.560.

13 NEW SECTION. Sec. 21. Sections 1 through 6 of this act constitute
14 a new chapter in Title 3 RCW."

15 Correct the title.

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