
SUBSTITUTE SENATE BILL 6576

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to supervision of juvenile offenders; amending RCW
2 13.40.020; reenacting and amending RCW 13.40.210; adding a new section
3 to chapter 13.40 RCW; creating a new section; and repealing RCW
4 13.40.212.

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

6 **Sec. 1.** RCW 13.40.210 and 2001 c 137 s 2 and 2001 c 51 s 1 are
7 each reenacted and amended to read as follows:

8 (1) The secretary shall set a release date for each juvenile
9 committed to its custody. The release date shall be within the
10 prescribed range to which a juvenile has been committed under RCW
11 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning
12 offenders the department determines are eligible for the juvenile
13 offender basic training camp program. Such dates shall be determined
14 prior to the expiration of sixty percent of a juvenile's minimum term
15 of confinement included within the prescribed range to which the
16 juvenile has been committed. The secretary shall release any juvenile
17 committed to the custody of the department within four calendar days
18 prior to the juvenile's release date or on the release date set under
19 this chapter. Days spent in the custody of the department shall be

1 tolled by any period of time during which a juvenile has absented
2 himself or herself from the department's supervision without the prior
3 approval of the secretary or the secretary's designee.

4 (2) The secretary shall monitor the average daily population of the
5 state's juvenile residential facilities. When the secretary concludes
6 that in-residence population of residential facilities exceeds one
7 hundred five percent of the rated bed capacity specified in statute, or
8 in absence of such specification, as specified by the department in
9 rule, the secretary may recommend reductions to the governor. On
10 certification by the governor that the recommended reductions are
11 necessary, the secretary has authority to administratively release a
12 sufficient number of offenders to reduce in-residence population to one
13 hundred percent of rated bed capacity. The secretary shall release
14 those offenders who have served the greatest proportion of their
15 sentence. However, the secretary may deny release in a particular case
16 at the request of an offender, or if the secretary finds that there is
17 no responsible custodian, as determined by the department, to whom to
18 release the offender, or if the release of the offender would pose a
19 clear danger to society. The department shall notify the committing
20 court of the release at the time of release if any such early releases
21 have occurred as a result of excessive in-residence population. In no
22 event shall an offender adjudicated of a violent offense be granted
23 release under the provisions of this subsection.

24 (3)(a) Following the release of any juvenile under subsection (1)
25 of this section, the ~~((secretary may))~~ sentencing court shall require
26 the juvenile to comply with a program of parole to be administered by
27 the county's juvenile community supervision program or the department
28 in his or her community which shall last no longer than ~~((eighteen))~~
29 twelve months, except that in the case of a juvenile sentenced for rape
30 in the first or second degree, rape of a child in the first or second
31 degree, child molestation in the first degree, or indecent liberties
32 with forcible compulsion, the period of parole shall be twenty-four
33 months and, in the discretion of the ~~((secretary))~~ juvenile court, may
34 be up to thirty-six months when the ~~((secretary))~~ juvenile court finds
35 that an additional period of parole is necessary and appropriate in the
36 interests of public safety or to meet the ongoing needs of the
37 juvenile. A parole program is mandatory for offenders released under
38 subsection (2) of this section. The decision to place an offender on
39 parole shall be based on an assessment by the ~~((department))~~ juvenile

1 court of the offender's risk for reoffending upon release. ((The
2 ~~department shall prioritize available parole resources to provide~~
3 ~~supervision and services to offenders at moderate to high risk for~~
4 ~~reoffending-)) Prior pending probation sentences shall run concurrent
5 with the parole supervision period.~~

6 (b) The ((~~secretary~~)) sentencing court shall, for the period of
7 parole, facilitate the juvenile's reintegration into his or her
8 community and to further this goal shall require the juvenile to
9 refrain from possessing a firearm or using a deadly weapon and refrain
10 from committing new offenses and may require the juvenile to: (i)
11 Undergo available medical, psychiatric, drug and alcohol, sex offender,
12 mental health, and other offense-related treatment services; (ii)
13 report as directed to a parole/juvenile community supervision officer
14 ((~~and/or designee~~)); (iii) pursue a course of study, vocational
15 training, or employment; (iv) notify the parole officer of the current
16 address where he or she resides; (v) be present at a particular address
17 during specified hours; (vi) remain within prescribed geographical
18 boundaries; (vii) submit to electronic monitoring; (viii) refrain from
19 using illegal drugs and alcohol, and submit to random urinalysis when
20 requested by the assigned parole officer; (ix) refrain from contact
21 with specific individuals or a specified class of individuals; (x) meet
22 other conditions determined by the parole officer to further enhance
23 the juvenile's reintegration into the community; (xi) pay any court-
24 ordered fines or restitution; and (xii) perform community service.
25 Community service for the purpose of this section means compulsory
26 service, without compensation, performed for the benefit of the
27 community by the offender. Community service may be performed through
28 public or private organizations or through work crews.

29 (c) ((~~The secretary may further require up to twenty-five percent~~
30 ~~of the highest risk juvenile offenders who are placed on parole to~~
31 ~~participate in an intensive supervision program. Offenders~~
32 ~~participating in an intensive supervision program shall be required to~~
33 ~~comply with all terms and conditions listed in (b) of this subsection~~
34 ~~and shall also be required to comply with the following additional~~
35 ~~terms and conditions: (i) Obey all laws and refrain from any conduct~~
36 ~~that threatens public safety; (ii) report at least once a week to an~~
37 ~~assigned community case manager; and (iii) meet all other requirements~~
38 ~~imposed by the community case manager related to participating in the~~

1 ~~intensive supervision program. As a part of the intensive supervision~~
2 ~~program, the secretary may require day reporting.~~

3 (d)) After termination of the parole period, the juvenile shall be
4 discharged from the (~~department's~~) juvenile court's supervision.

5 (4)(a) The (~~department~~) juvenile court may also modify parole for
6 violation thereof. If, after affording a juvenile all of the due
7 process rights to which he or she would be entitled if the juvenile
8 were an adult, the (~~secretary~~) juvenile court finds that a juvenile
9 has violated a condition of his or her parole, the (~~secretary shall~~)
10 juvenile court may order one of the following which is reasonably
11 likely to effectuate the purpose of the parole and to protect the
12 public: (i) Continued supervision under the same conditions previously
13 imposed; (ii) intensified supervision with increased reporting
14 requirements; (iii) additional conditions of supervision authorized by
15 this chapter; (iv) except as provided in (a)(v) and (vi) of this
16 subsection, imposition of a period of confinement not to exceed thirty
17 days in a facility operated by or pursuant to a contract with the state
18 of Washington or any city or county for a portion of each day or for a
19 certain number of days each week with the balance of the days or weeks
20 spent under supervision; (v) the (~~secretary~~) juvenile court may order
21 any of the conditions or may return the offender to confinement for the
22 remainder of the sentence range if the offense for which the offender
23 was sentenced is rape in the first or second degree, rape of a child in
24 the first or second degree, child molestation in the first degree,
25 indecent liberties with forcible compulsion, or a sex offense that is
26 also a serious violent offense as defined by RCW 9.94A.030; and (vi)
27 the (~~secretary~~) juvenile court may order any of the conditions or may
28 return the offender to confinement for the remainder of the sentence
29 range if the youth has completed the basic training camp program as
30 described in RCW 13.40.320.

31 (b) If the (~~department~~) juvenile court finds that any juvenile in
32 a program of parole has possessed a firearm or used a deadly weapon
33 during the program of parole, the (~~department~~) juvenile court shall
34 modify the parole under (a) of this subsection and confine the juvenile
35 for at least thirty days. Confinement shall be in a facility operated
36 by or pursuant to a contract with the state or any county.

37 (5) A parole/juvenile community supervision officer of the
38 (~~department of social and health services~~) juvenile court shall have
39 the power to arrest a juvenile under his or her supervision on the same

1 grounds as a law enforcement officer would be authorized to arrest the
2 person.

3 ~~(6) ((If so requested and approved under chapter 13.06 RCW, the~~
4 ~~secretary shall permit a county or group of counties to perform~~
5 ~~functions under subsections (3) through (5) of this section))~~ The
6 responsibility for providing parole/juvenile community supervision
7 services shall be that of the state, unless individual counties choose
8 to contract with the state to provide parole/juvenile community
9 supervision services. In the event that a county chooses to provide
10 these services, the county shall follow the parole standards
11 established by the state and being used as of January 1, 2002. The
12 state may change the standards of parole only after consultation and
13 consideration from the counties.

14 (7) So long as the county follows the state parole standards, and
15 in the absence of gross negligence, the state shall indemnify the
16 county from liability from any action, claim, or proceeding instituted
17 against the county or its employees arising out of the performance or
18 failure of performance of the parole/juvenile community supervision
19 services.

20 (8) Until July 1, 2002, all juvenile offenders released from a
21 state commitment institution and subject to parole supervision shall
22 remain under the jurisdiction of the state. On and after July 1, 2002,
23 juvenile offenders released from a state commitment institution and
24 subject to parole supervision shall come under the jurisdiction of the
25 counties who have chosen to contract with the state for those services
26 as described in this section.

27 NEW SECTION. Sec. 2. A new section is added to chapter 13.40 RCW
28 to read as follows:

29 In recognizing the legislature's intent to provide community
30 services to juvenile offenders through consolidation of service
31 delivery systems, counties choosing not to provide parole/juvenile
32 community supervision services may contract with adjoining counties to
33 provide these services, and shall be indemnified by the state to the
34 same degree as the county providing the services.

35 **Sec. 3.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to read
36 as follows:

37 For the purposes of this chapter:

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

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

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

13 (b) Community service not to exceed one hundred fifty hours of
14 service;

15 (3) "Community service" means compulsory service, without
16 compensation, performed for the benefit of the community by the
17 offender as punishment for committing an offense. Community service
18 may be performed through public or private organizations or through
19 work crews;

20 (4) "Community supervision" means an order of disposition by the
21 court of an adjudicated youth not committed to the department or an
22 order granting a deferred disposition. A community supervision order
23 for a single offense may be for a period of up to two years for a sex
24 offense as defined by RCW 9.94A.030 and up to one year for other
25 offenses. As a mandatory condition of any term of community
26 supervision, the court shall order the juvenile to refrain from
27 committing new offenses. As a mandatory condition of community
28 supervision, the court shall order the juvenile to comply with the
29 mandatory school attendance provisions of chapter 28A.225 RCW and to
30 inform the school of the existence of this requirement. Community
31 supervision is an individualized program comprised of one or more of
32 the following:

33 (a) Community-based sanctions;

34 (b) Community-based rehabilitation;

35 (c) Monitoring and reporting requirements;

36 (d) Posting of a probation bond;

37 (5) "Confinement" means physical custody by the department of
38 social and health services in a facility operated by or pursuant to a
39 contract with the state, or physical custody in a detention facility

1 operated by or pursuant to a contract with any county. The county may
2 operate or contract with vendors to operate county detention
3 facilities. The department may operate or contract to operate
4 detention facilities for juveniles committed to the department.
5 Pretrial confinement or confinement of less than thirty-one days
6 imposed as part of a disposition or modification order may be served
7 consecutively or intermittently, in the discretion of the court;

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

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

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

16 (b) The criminal complaint was diverted by a prosecutor pursuant to
17 the provisions of this chapter on agreement of the respondent and after
18 an advisement to the respondent that the criminal complaint would be
19 considered as part of the respondent's criminal history. A
20 successfully completed deferred adjudication that was entered before
21 July 1, 1998, or a deferred disposition shall not be considered part of
22 the respondent's criminal history;

23 (8) "Department" means the department of social and health
24 services;

25 (9) "Detention facility" means a county facility, paid for by the
26 county, for the physical confinement of a juvenile alleged to have
27 committed an offense or an adjudicated offender subject to a
28 disposition or modification order. "Detention facility" includes
29 county group homes, inpatient substance abuse programs, juvenile basic
30 training camps, and electronic monitoring;

31 (10) "Diversion unit" means any probation counselor who enters into
32 a diversion agreement with an alleged youthful offender, or any other
33 person, community accountability board, or other entity except a law
34 enforcement official or entity, with whom the juvenile court
35 administrator has contracted to arrange and supervise such agreements
36 pursuant to RCW 13.40.080, or any person, community accountability
37 board, or other entity specially funded by the legislature to arrange
38 and supervise diversion agreements in accordance with the requirements
39 of this chapter. For purposes of this subsection, "community

1 accountability board" means a board comprised of members of the local
2 community in which the juvenile offender resides. The superior court
3 shall appoint the members. The boards shall consist of at least three
4 and not more than seven members. If possible, the board should include
5 a variety of representatives from the community, such as a law
6 enforcement officer, teacher or school administrator, high school
7 student, parent, and business owner, and should represent the cultural
8 diversity of the local community;

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

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

14 (~~(13)~~) (~~"Intensive supervision program" means a parole program that~~
15 ~~requires intensive supervision and monitoring, offers an array of~~
16 ~~individualized treatment and transitional services, and emphasizes~~
17 ~~community involvement and support in order to reduce the likelihood a~~
18 ~~juvenile offender will commit further offenses;~~

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

23 (~~(15)~~) (14) "Juvenile offender" means any juvenile who has been
24 found by the juvenile court to have committed an offense, including a
25 person eighteen years of age or older over whom jurisdiction has been
26 extended under RCW 13.40.300;

27 (~~(16)~~) (15) "Local sanctions" means one or more of the following:
28 (a) 0-30 days of confinement; (b) 0-12 months of community supervision;
29 (c) 0-150 hours of community service; or (d) \$0-\$500 fine;

30 (~~(17)~~) (16) "Manifest injustice" means a disposition that would
31 either impose an excessive penalty on the juvenile or would impose a
32 serious, and clear danger to society in light of the purposes of this
33 chapter;

34 (~~(18)~~) (17) "Monitoring and reporting requirements" means one or
35 more of the following: Curfews; requirements to remain at home,
36 school, work, or court-ordered treatment programs during specified
37 hours; restrictions from leaving or entering specified geographical
38 areas; requirements to report to the probation officer as directed and
39 to remain under the probation officer's supervision; and other

1 conditions or limitations as the court may require which may not
2 include confinement;

3 ~~((19))~~ (18) "Offense" means an act designated a violation or a
4 crime if committed by an adult under the law of this state, under any
5 ordinance of any city or county of this state, under any federal law,
6 or under the law of another state if the act occurred in that state;

7 ~~((20))~~ (19) "Probation bond" means a bond, posted with sufficient
8 security by a surety justified and approved by the court, to secure the
9 offender's appearance at required court proceedings and compliance with
10 court-ordered community supervision or conditions of release ordered
11 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
12 cash or posting of other collateral in lieu of a bond if approved by
13 the court;

14 ~~((21))~~ (20) "Respondent" means a juvenile who is alleged or
15 proven to have committed an offense;

16 ~~((22))~~ (21) "Restitution" means financial reimbursement by the
17 offender to the victim, and shall be limited to easily ascertainable
18 damages for injury to or loss of property, actual expenses incurred for
19 medical treatment for physical injury to persons, lost wages resulting
20 from physical injury, and costs of the victim's counseling reasonably
21 related to the offense if the offense is a sex offense. Restitution
22 shall not include reimbursement for damages for mental anguish, pain
23 and suffering, or other intangible losses. Nothing in this chapter
24 shall limit or replace civil remedies or defenses available to the
25 victim or offender;

26 ~~((23))~~ (22) "Secretary" means the secretary of the department of
27 social and health services. "Assistant secretary" means the assistant
28 secretary for juvenile rehabilitation for the department;

29 ~~((24))~~ (23) "Services" means services which provide alternatives
30 to incarceration for those juveniles who have pleaded or been
31 adjudicated guilty of an offense or have signed a diversion agreement
32 pursuant to this chapter;

33 ~~((25))~~ (24) "Sex offense" means an offense defined as a sex
34 offense in RCW 9.94A.030;

35 ~~((26))~~ (25) "Sexual motivation" means that one of the purposes
36 for which the respondent committed the offense was for the purpose of
37 his or her sexual gratification;

38 ~~((27))~~ (26) "Surety" means an entity licensed under state
39 insurance laws or by the state department of licensing, to write

1 corporate, property, or probation bonds within the state, and justified
2 and approved by the superior court of the county having jurisdiction of
3 the case;

4 ~~((28))~~ (27) "Violation" means an act or omission, which if
5 committed by an adult, must be proven beyond a reasonable doubt, and is
6 punishable by sanctions which do not include incarceration;

7 ~~((29))~~ (28) "Violent offense" means a violent offense as defined
8 in RCW 9.94A.030.

9 NEW SECTION. **Sec. 4.** RCW 13.40.212 (Intensive supervision
10 program--Elements--Report) and 1997 c 338 s 34 are each repealed.

11 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this
12 act, referencing this act by bill or chapter number, is not provided by
13 June 30, 2002, in the omnibus appropriations act, this act is null and
14 void.

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