
SUBSTITUTE SENATE BILL 5903

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Hargrove, Stevens and Carlson)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to juvenile offender sentences; amending RCW
2 13.40.160; adding new sections to chapter 13.40 RCW; creating new
3 sections; and providing an expiration date.

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

5 **Sec. 1.** RCW 13.40.160 and 2002 c 175 s 22 are each amended to read
6 as follows:

7 (1) The standard range disposition for a juvenile adjudicated of an
8 offense is determined according to RCW 13.40.0357.

9 (a) When the court sentences an offender to a local sanction as
10 provided in RCW 13.40.0357 option A, the court shall impose a
11 determinate disposition within the standard ranges, except as provided
12 in subsections (2), (3), ~~((and))~~ (4), (5), and (6) of this section.
13 The disposition may be comprised of one or more local sanctions.

14 (b) When the court sentences an offender to a standard range as
15 provided in RCW 13.40.0357 option A that includes a term of confinement
16 exceeding thirty days, commitment shall be to the department for the
17 standard range of confinement, except as provided in subsections (2),
18 (3), ~~((and))~~ (4), (5), and (6) of this section.

1 (2) If the court concludes, and enters reasons for its conclusion,
2 that disposition within the standard range would effectuate a manifest
3 injustice the court shall impose a disposition outside the standard
4 range, as indicated in option C of RCW 13.40.0357. The court's finding
5 of manifest injustice shall be supported by clear and convincing
6 evidence.

7 A disposition outside the standard range shall be determinate and
8 shall be comprised of confinement or community supervision, or a
9 combination thereof. When a judge finds a manifest injustice and
10 imposes a sentence of confinement exceeding thirty days, the court
11 shall sentence the juvenile to a maximum term, and the provisions of
12 RCW 13.40.030(2) shall be used to determine the range. A disposition
13 outside the standard range is appealable under RCW 13.40.230 by the
14 state or the respondent. A disposition within the standard range is
15 not appealable under RCW 13.40.230.

16 (3) When a juvenile offender is found to have committed a sex
17 offense, other than a sex offense that is also a serious violent
18 offense as defined by RCW 9.94A.030, and has no history of a prior sex
19 offense, the court, on its own motion or the motion of the state or the
20 respondent, may order an examination to determine whether the
21 respondent is amenable to treatment.

22 The report of the examination shall include at a minimum the
23 following: The respondent's version of the facts and the official
24 version of the facts, the respondent's offense history, an assessment
25 of problems in addition to alleged deviant behaviors, the respondent's
26 social, educational, and employment situation, and other evaluation
27 measures used. The report shall set forth the sources of the
28 evaluator's information.

29 The examiner shall assess and report regarding the respondent's
30 amenability to treatment and relative risk to the community. A
31 proposed treatment plan shall be provided and shall include, at a
32 minimum:

33 (a)(i) Frequency and type of contact between the offender and
34 therapist;

35 (ii) Specific issues to be addressed in the treatment and
36 description of planned treatment modalities;

37 (iii) Monitoring plans, including any requirements regarding living

1 conditions, lifestyle requirements, and monitoring by family members,
2 legal guardians, or others;

3 (iv) Anticipated length of treatment; and

4 (v) Recommended crime-related prohibitions.

5 The court on its own motion may order, or on a motion by the state
6 shall order, a second examination regarding the offender's amenability
7 to treatment. The evaluator shall be selected by the party making the
8 motion. The defendant shall pay the cost of any second examination
9 ordered unless the court finds the defendant to be indigent in which
10 case the state shall pay the cost.

11 After receipt of reports of the examination, the court shall then
12 consider whether the offender and the community will benefit from use
13 of this special sex offender disposition alternative and consider the
14 victim's opinion whether the offender should receive a treatment
15 disposition under this section. If the court determines that this
16 special sex offender disposition alternative is appropriate, then the
17 court shall impose a determinate disposition within the standard range
18 for the offense, or if the court concludes, and enters reasons for its
19 conclusions, that such disposition would cause a manifest injustice,
20 the court shall impose a disposition under option ((E)) D, and the
21 court may suspend the execution of the disposition and place the
22 offender on community supervision for at least two years. As a
23 condition of the suspended disposition, the court may impose the
24 conditions of community supervision and other conditions, including up
25 to thirty days of confinement and requirements that the offender do any
26 one or more of the following:

27 (b)(i) Devote time to a specific education, employment, or
28 occupation;

29 (ii) Undergo available outpatient sex offender treatment for up to
30 two years, or inpatient sex offender treatment not to exceed the
31 standard range of confinement for that offense. A community mental
32 health center may not be used for such treatment unless it has an
33 appropriate program designed for sex offender treatment. The
34 respondent shall not change sex offender treatment providers or
35 treatment conditions without first notifying the prosecutor, the
36 probation counselor, and the court, and shall not change providers
37 without court approval after a hearing if the prosecutor or probation
38 counselor object to the change;

1 (iii) Remain within prescribed geographical boundaries and notify
2 the court or the probation counselor prior to any change in the
3 offender's address, educational program, or employment;

4 (iv) Report to the prosecutor and the probation counselor prior to
5 any change in a sex offender treatment provider. This change shall
6 have prior approval by the court;

7 (v) Report as directed to the court and a probation counselor;

8 (vi) Pay all court-ordered legal financial obligations, perform
9 community restitution, or any combination thereof;

10 (vii) Make restitution to the victim for the cost of any counseling
11 reasonably related to the offense;

12 (viii) Comply with the conditions of any court-ordered probation
13 bond; or

14 (ix) The court shall order that the offender may not attend the
15 public or approved private elementary, middle, or high school attended
16 by the victim or the victim's siblings. The parents or legal guardians
17 of the offender are responsible for transportation or other costs
18 associated with the offender's change of school that would otherwise be
19 paid by the school district. The court shall send notice of the
20 disposition and restriction on attending the same school as the victim
21 or victim's siblings to the public or approved private school the
22 juvenile will attend, if known, or if unknown, to the approved private
23 schools and the public school district board of directors of the
24 district in which the juvenile resides or intends to reside. This
25 notice must be sent at the earliest possible date but not later than
26 ten calendar days after entry of the disposition.

27 The sex offender treatment provider shall submit quarterly reports
28 on the respondent's progress in treatment to the court and the parties.
29 The reports shall reference the treatment plan and include at a minimum
30 the following: Dates of attendance, respondent's compliance with
31 requirements, treatment activities, the respondent's relative progress
32 in treatment, and any other material specified by the court at the time
33 of the disposition.

34 At the time of the disposition, the court may set treatment review
35 hearings as the court considers appropriate.

36 Except as provided in this subsection (3), after July 1, 1991,
37 examinations and treatment ordered pursuant to this subsection shall
38 only be conducted by sex offender treatment providers certified by the

1 department of health pursuant to chapter 18.155 RCW. A sex offender
2 therapist who examines or treats a juvenile sex offender pursuant to
3 this subsection does not have to be certified by the department of
4 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
5 offender has already moved to another state or plans to move to another
6 state for reasons other than circumventing the certification
7 requirements; (B) no certified providers are available for treatment
8 within a reasonable geographical distance of the offender's home; and
9 (C) the evaluation and treatment plan comply with this subsection (3)
10 and the rules adopted by the department of health.

11 If the offender violates any condition of the disposition or the
12 court finds that the respondent is failing to make satisfactory
13 progress in treatment, the court may revoke the suspension and order
14 execution of the disposition or the court may impose a penalty of up to
15 thirty days' confinement for violating conditions of the disposition.
16 The court may order both execution of the disposition and up to thirty
17 days' confinement for the violation of the conditions of the
18 disposition. The court shall give credit for any confinement time
19 previously served if that confinement was for the offense for which the
20 suspension is being revoked.

21 For purposes of this section, "victim" means any person who has
22 sustained emotional, psychological, physical, or financial injury to
23 person or property as a direct result of the crime charged. "Victim"
24 may also include a known parent or guardian of a victim who is a minor
25 child unless the parent or guardian is the perpetrator of the offense.

26 A disposition entered under this subsection (3) is not appealable
27 under RCW 13.40.230.

28 (4) If the juvenile offender is subject to a standard range
29 disposition of local sanctions or 15 to 36 weeks of confinement and has
30 not committed an A- or B+ offense, the court may impose the disposition
31 alternative under RCW 13.40.165.

32 (5) If a juvenile is subject to a standard range disposition of
33 local sanctions or 52 to 65 weeks of confinement or less, the court may
34 impose the disposition alternative under section 2 of this act.

35 (6) When the offender is subject to a standard range commitment of
36 15 to 36 weeks or less and is ineligible for a suspended disposition
37 alternative, a manifest injustice disposition below the standard range,
38 special sex offender disposition alternative, chemical dependency

1 disposition alternative, or mental health disposition alternative, the
2 court may impose the disposition alternative under section 3 of this
3 act.

4 (7) RCW 13.40.193 shall govern the disposition of any juvenile
5 adjudicated of possessing a firearm in violation of RCW
6 9.41.040(1)(b)(iii) or any crime in which a special finding is entered
7 that the juvenile was armed with a firearm.

8 ((+6+)) (8) Whenever a juvenile offender is entitled to credit for
9 time spent in detention prior to a dispositional order, the
10 dispositional order shall specifically state the number of days of
11 credit for time served.

12 ((+7+)) (9) Except as provided under subsection (3) ((+8+)) (4),
13 (5), or (6) of this section or RCW 13.40.127, the court shall not
14 suspend or defer the imposition or the execution of the disposition.

15 ((+8+)) (10) In no case shall the term of confinement imposed by
16 the court at disposition exceed that to which an adult could be
17 subjected for the same offense.

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

20 (1) When an offender is subject to a local sanction or a standard
21 range disposition of 52 to 65 weeks or less, the court may:

- 22 (a) Impose the standard range; or
- 23 (b)(i) After finding a manifest injustice, impose a determinate
24 disposition of not more than 52 weeks; and
- 25 (ii) Suspend the standard range or manifest injustice disposition
26 on condition that the offender complies with the terms of this mental
27 health disposition alternative.

28 (2) The court may impose this disposition alternative when the
29 court finds the following:

- 30 (a) The offender has a current diagnosis, consistent with the
31 American psychiatry association diagnostic and statistical manual of
32 mental disorders IV, of axis I or II psychiatric disorder, excluding
33 youth that are diagnosed as solely having a conduct disorder,
34 oppositional defiant disorder, paraphilia, or pedophilia;
- 35 (b) An appropriate treatment option is available in the local
36 community;

1 (c) The plan for the offender identifies and addresses requirements
2 for successful participation and completion of the treatment
3 intervention program including: Incentives and graduated sanctions
4 designed specifically for amenable youth, including the use of
5 detention, detoxication, and in-patient or outpatient substance abuse
6 treatment and psychiatric hospitalization, and structured community
7 support consisting of mental health providers, probation, educational
8 and vocational advocates, child welfare services, and family and
9 community support; and

10 (d) The offender, offender's family, and community will benefit
11 from use of the mental health disposition alternative.

12 (3) The court on its own motion may order, or on motion by the
13 state, shall order a comprehensive mental health evaluation to
14 determine if the offender has a designated mental disorder. The court
15 may also order a chemical dependency evaluation to determine if the
16 offender also has a co-occurring chemical dependency disorder. The
17 evaluation shall include at a minimum the following: The offender's
18 version of the facts and the official version of the facts, the
19 offender's offense, an assessment of the offender's mental health and
20 drug-alcohol problems and previous treatment attempts, and the
21 offender's social, criminal, educational, and employment history and
22 living situation.

23 (4) The evaluator shall determine if the offender is amenable to
24 research-based treatment. A proposed case management and treatment
25 plan shall include at a minimum:

26 (a) The availability of treatment;

27 (b) Anticipated length of treatment;

28 (c) Whether one or more treatment interventions are proposed and
29 the anticipated sequence of those treatment interventions;

30 (d) The education plan;

31 (e) The residential plan; and

32 (f) The monitoring plan.

33 (5) The court on its own motion may order, or on motion by the
34 state, shall order a second mental health or chemical dependency
35 evaluation. The party making the motion shall select the evaluator.
36 The requesting party shall pay the cost of any examination ordered
37 under this subsection and subsection (3) of this section unless the

1 court finds the offender is indigent and no third party insurance
2 coverage is available, in which case the state shall pay the cost.

3 (6) Upon receipt of the assessments, evaluations, and reports the
4 court shall consider whether the offender and the community will
5 benefit from use of the mental health disposition alternative. The
6 court shall consider the victim's opinion whether the offender should
7 receive the option.

8 (7) If the court determines that the mental health disposition
9 alternative is appropriate, the court shall impose the standard range
10 or a manifest injustice disposition of not more than 52 weeks, suspend
11 execution of the disposition, and place the offender on community
12 supervision up to one year and impose one or more other local
13 sanctions. Confinement in a secure county detention facility, other
14 than county group homes and substance abuse programs, shall be limited
15 to thirty days. As a condition of a suspended disposition, the court
16 shall require the offender to participate in the recommended treatment
17 interventions.

18 (8) The treatment providers shall submit monthly reports to the
19 court and parties on the offender's progress in treatment. The report
20 shall reference the treatment plan and include at a minimum the
21 following: Dates of attendance, offender's compliance with
22 requirements, treatment activities, medication management, the
23 offender's relative progress in treatment, and any other material
24 specified by the court at the time of the disposition.

25 (9) If the offender fails to comply with the suspended disposition,
26 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
27 the suspended disposition and order the disposition's execution.

28 (10) An offender is ineligible for the suspended disposition option
29 under this section if the offender is adjudicated of a sex or violent
30 offense as defined in RCW 9.94A.030.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.40 RCW
32 to read as follows:

33 (1) When the offender is subject to a standard range commitment of
34 15 to 36 weeks or less and is ineligible for a suspended disposition
35 alternative, a manifest injustice disposition below the standard range,
36 special sex offender disposition alternative, chemical dependency

1 disposition alternative, or mental health disposition alternative, the
2 court may impose a community commitment disposition alternative and:

3 (a) Retain juvenile court jurisdiction over the youth;

4 (b) Confine the youth in a county detention facility:

5 (i) For the standard range; or

6 (ii) After finding a manifest injustice, a determinate disposition
7 up to 52 weeks; and

8 (c) Impose a term of postrelease community supervision for up to
9 one year.

10 If the youth receives a standard range disposition, the court shall
11 set the release date within the standard range. The court shall
12 determine the release date prior to expiration of sixty percent of the
13 juvenile's minimum term of confinement.

14 (2) The court may impose this community commitment disposition
15 alternative if the court finds the following:

16 (a) Placement in a local detention facility in close proximity to
17 the youth's family or local support systems will facilitate a smoother
18 reintegration to the youth's family and community;

19 (b) Placement in the local detention facility will allow the youth
20 to benefit from locally provided family intervention programs and other
21 research-based treatment programs, school, employment, and drug and
22 alcohol or mental health counseling; or

23 (c) Confinement in a facility operated by the department would
24 result in a negative disruption to local services, school, or
25 employment or impede or delay developing those services and support
26 systems in the community.

27 (3) The court shall consider the youth's offense, prior criminal
28 history, security classification, risk level, and treatment needs and
29 history when determining whether the youth is appropriate for the
30 community commitment disposition alternative. If the court finds that
31 a community commitment disposition alternative is appropriate, the
32 court shall order the youth into secure detention while the details of
33 the reintegration program are developed.

34 (4) Upon approval of the treatment and community reintegration
35 plan, the court may order the youth to serve the term of confinement in
36 one or more of the following placements or combination of placements:
37 Secure detention, an alternative to secure detention such as electronic
38 home monitoring, county group care, day or evening reporting, or home

1 detention. The court may order the youth to serve time in detention on
2 weekends or intermittently. At least fifty percent of term of
3 confinement shall be served in secure detention. The court shall set
4 periodic reviews to review the youth's progress in the program.

5 (5) If the youth violates the conditions of the community
6 commitment program, the court may impose sanctions under RCW 13.40.200
7 or modify the terms of the reintegration plan and order the youth to
8 serve all or a portion of the remaining confinement term in secure
9 detention.

10 (6) A county may enter into interlocal agreements with other
11 counties to develop joint community commitment programs or to allow one
12 county to send a youth appropriate for this alternative to another
13 county that has a community commitment program.

14 (7) Implementation of this alternative is subject to available
15 state funding for the costs of the community commitment program,
16 including costs of detention and community supervision.

17 NEW SECTION. **Sec. 4.** The Washington state institute for public
18 policy shall develop standards for measuring effectiveness of treatment
19 programs under the mental health disposition alternative. The
20 standards shall be developed and presented to the governor and
21 legislature not later than January 1, 2004. The standards shall
22 include methods for measuring success factors following treatment. The
23 standards shall include, but not be limited to, continued use of
24 alcohol or controlled substances, arrests, violations of terms of
25 community supervision, and convictions for subsequent offenses. These
26 standards shall be utilized by the court in determining the continued
27 use of this alternative and the success of treatment providers and
28 programs.

29 NEW SECTION. **Sec. 5.** (1) A task force is created for the purpose
30 of examining the coordination of information, education services, and
31 matters of public safety when juvenile offenders are placed into public
32 schools, following their conviction.

33 (2) The task force shall be chaired by the superintendent of public
34 instruction and include a representative from the juvenile
35 rehabilitation administration of the department of social and health
36 services, the state board of education, associations which represent

1 school teachers, administrators and school boards, superior court
2 judges, the Washington association of juvenile court administrators,
3 prosecuting attorneys, the governor, attorneys whose practice includes
4 criminal defense work for juvenile defendants, three groups whose
5 primary purpose is the delivery of services to families and children,
6 and law enforcement. The three persons from those groups who deliver
7 services shall be selected by the superintendent of public instruction.

8 (3) The task force shall identify specific policies and statutory,
9 administrative, and practice processes and barriers that may operate to
10 impede: (a) The identification and delivery of appropriate and
11 coordinated services to juvenile offenders who are placed in, or
12 returned to, public schools following conviction of an offense; and (b)
13 transmittal of information regarding juvenile offenders who are
14 returned to, or placed in, public schools following conviction of an
15 offense. The task force shall recommend specific statutory and
16 administrative changes as it finds appropriate to eliminate or reduce
17 the barriers identified as a result of this subsection.

18 (4) The task force shall report its findings and recommendations to
19 the governor, the legislature, and the agencies represented on the task
20 force not later than December 1, 2003.

21 (5) This section expires December 31, 2003.

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