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HOUSE BILL 2825

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Lovick and McCoy

Read first time 01/13/2006. Referred to Committee on Juvenile Justice & Family Law.

1 AN ACT Relating to deferred disposition of juveniles; and amending  
2 RCW 13.40.127.

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

4 **Sec. 1.** RCW 13.40.127 and 2004 c 117 s 2 are each amended to read  
5 as follows:

6 (1) A juvenile is eligible for deferred disposition unless he or  
7 she:

8 (a) Is charged with a sex or violent offense;

9 (b) Is charged with having possession or control of a firearm at  
10 any public or private elementary or secondary school premises, school-  
11 provided transportation, or areas of facilities while being used  
12 exclusively by public or private schools in violation of RCW  
13 9.41.280(1)(a);

14 (c) Has a criminal history which includes any felony;

15 ((+e)) (d) Has a prior deferred disposition or deferred  
16 adjudication; or

17 ((+d)) (e) Has two or more adjudications.

18 (2) The juvenile court may, upon motion at least fourteen days  
19 before commencement of trial and, after consulting the juvenile's

1 custodial parent or parents or guardian and with the consent of the  
2 juvenile, continue the case for disposition for a period not to exceed  
3 one year from the date the juvenile is found guilty. The court shall  
4 consider whether the offender and the community will benefit from a  
5 deferred disposition before deferring the disposition.

6 (3) Any juvenile who agrees to a deferral of disposition shall:

7 (a) Stipulate to the admissibility of the facts contained in the  
8 written police report;

9 (b) Acknowledge that the report will be entered and used to support  
10 a finding of guilt and to impose a disposition if the juvenile fails to  
11 comply with terms of supervision; and

12 (c) Waive the following rights to: (i) A speedy disposition; and  
13 (ii) call and confront witnesses.

14 The adjudicatory hearing shall be limited to a reading of the  
15 court's record.

16 (4) Following the stipulation, acknowledgment, waiver, and entry of  
17 a finding or plea of guilt, the court shall defer entry of an order of  
18 disposition of the juvenile.

19 (5) Any juvenile granted a deferral of disposition under this  
20 section shall be placed under community supervision. The court may  
21 impose any conditions of supervision that it deems appropriate  
22 including posting a probation bond. Payment of restitution under RCW  
23 13.40.190 shall be a condition of community supervision under this  
24 section.

25 The court may require a juvenile offender convicted of animal  
26 cruelty in the first degree to submit to a mental health evaluation to  
27 determine if the offender would benefit from treatment and such  
28 intervention would promote the safety of the community. After  
29 consideration of the results of the evaluation, as a condition of  
30 community supervision, the court may order the offender to attend  
31 treatment to address issues pertinent to the offense.

32 (6) A parent who signed for a probation bond has the right to  
33 notify the counselor if the juvenile fails to comply with the bond or  
34 conditions of supervision. The counselor shall notify the court and  
35 surety of any failure to comply. A surety shall notify the court of  
36 the juvenile's failure to comply with the probation bond. The state  
37 shall bear the burden to prove, by a preponderance of the evidence,

1 that the juvenile has failed to comply with the terms of community  
2 supervision.

3 (7) A juvenile's lack of compliance shall be determined by the  
4 judge upon written motion by the prosecutor or the juvenile's juvenile  
5 court community supervision counselor. If a juvenile fails to comply  
6 with terms of supervision, the court shall enter an order of  
7 disposition.

8 (8) At any time following deferral of disposition the court may,  
9 following a hearing, continue the case for an additional one-year  
10 period for good cause.

11 (9) At the conclusion of the period set forth in the order of  
12 deferral and upon a finding by the court of full compliance with  
13 conditions of supervision and payment of full restitution, the  
14 respondent's conviction shall be vacated and the court shall dismiss  
15 the case with prejudice, except that a conviction under RCW 16.52.205  
16 shall not be vacated.

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