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ENGROSSED SUBSTITUTE HOUSE BILL 3186

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State of Washington

59th Legislature

2006 Regular Session

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson and Rodne)

READ FIRST TIME 02/02/06.

1 AN ACT Relating to the modification of disposition orders; and  
2 amending RCW 13.40.200.

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

4 **Sec. 1.** RCW 13.40.200 and 2004 c 120 s 7 are each amended to read  
5 as follows:

6 (1) When a respondent fails to comply with an order of restitution,  
7 community supervision, penalty assessments, or confinement of less than  
8 thirty days, the court upon motion of the prosecutor or its own motion,  
9 may modify the order after a hearing on the violation.

10 (2) The hearing shall afford the respondent the same due process of  
11 law as would be afforded an adult probationer. The court may issue a  
12 summons or a warrant to compel the respondent's appearance. The state  
13 shall have the burden of proving by a preponderance of the evidence the  
14 fact of the violation. The respondent shall have the burden of showing  
15 that the violation was not a willful refusal to comply with the terms  
16 of the order. If a respondent has failed to pay a fine, penalty  
17 assessments, or restitution or to perform community restitution hours,  
18 as required by the court, it shall be the respondent's burden to show

1 that he or she did not have the means and could not reasonably have  
2 acquired the means to pay the fine, penalty assessments, or restitution  
3 or perform community restitution.

4 (3) If the court finds that a respondent has willfully violated the  
5 terms of an order pursuant to subsections (1) and (2) of this section,  
6 it may impose a penalty of up to thirty days' confinement. Penalties  
7 for multiple violations occurring prior to the hearing shall not be  
8 aggregated to exceed thirty days' confinement. Regardless of the  
9 number of times a respondent is brought to court for violations of the  
10 terms of a single disposition order, the combined total number of days  
11 spent by the respondent in detention shall never exceed the maximum  
12 term to which an adult could be sentenced for the underlying offense.

13 (4) If a respondent has been ordered to pay a fine or monetary  
14 penalty and due to a change of circumstance cannot reasonably comply  
15 with the order, the court, upon motion of the respondent, may order  
16 that the unpaid fine or monetary penalty be converted to community  
17 restitution unless the monetary penalty is the crime victim penalty  
18 assessment, which cannot be converted, waived, or otherwise modified,  
19 except for schedule of payment. The number of hours of community  
20 restitution in lieu of a monetary penalty or fine shall be converted at  
21 the rate of the prevailing state minimum wage per hour. The monetary  
22 penalties or fines collected shall be deposited in the county general  
23 fund. A failure to comply with an order under this subsection shall be  
24 deemed a failure to comply with an order of community supervision and  
25 may be proceeded against as provided in this section.

26 (5) When a respondent has willfully violated the terms of a  
27 probation bond, the court may modify, revoke, or retain the probation  
28 bond as provided in RCW 13.40.054.

29 (6) The prosecuting attorney, upon request by the juvenile court  
30 probation officer, may move the court to modify the terms of the order  
31 of the disposition, whether or not the respondent has violated any  
32 terms of the order of disposition. The court may modify the order of  
33 disposition for good cause shown, so long as the modification does not  
34 result in any increased sanction or penalty. In determining whether  
35 good cause exists, the court shall consider the best interests of the  
36 respondent, the victim, and the community.

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