
SUBSTITUTE SENATE BILL 5580

State of Washington

62nd Legislature

2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Regala and Kline)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to orders of disposition for juveniles; and
2 amending RCW 13.40.127, 46.20.270, 46.20.270, 9.41.040, 13.04.155, and
3 13.40.180.

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

5 **Sec. 1.** RCW 13.40.127 and 2009 c 236 s 1 are each amended to read
6 as follows:

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

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

10 (b) Has a criminal history which includes any felony;

11 (c) Has a prior deferred disposition or deferred adjudication; or

12 (d) Has two or more adjudications.

13 (2) The juvenile court may, upon motion at least fourteen days
14 before commencement of trial and, after consulting the juvenile's
15 custodial parent or parents or guardian and with the consent of the
16 juvenile, continue the case for disposition for a period not to exceed
17 one year from the date the juvenile is found guilty. The court shall
18 consider whether the offender and the community will benefit from a

1 deferred disposition before deferring the disposition. The court may
2 waive the fourteen-day period anytime before the commencement of trial
3 for good cause.

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

5 (a) Stipulate to the admissibility of the facts contained in the
6 written police report;

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

10 (c) Waive the following rights to: (i) A speedy disposition; and
11 (ii) call and confront witnesses; and

12 (d) Acknowledge the direct consequences of being found guilty and
13 the direct consequences that will happen if an order of disposition is
14 entered.

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

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

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

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

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

1 shall bear the burden to prove, by a preponderance of the evidence,
2 that the juvenile has failed to comply with the terms of community
3 supervision.

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

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

12 (9) At the conclusion of the period set forth in the order of
13 deferral and upon a finding by the court of full compliance with
14 conditions of supervision and payment of full restitution, the
15 respondent's conviction shall be vacated and the court shall dismiss
16 the case with prejudice, except that a conviction under RCW 16.52.205
17 shall not be vacated. If restitution has not been paid in full but the
18 court is satisfied that the respondent made a good faith effort to pay
19 the full amount, the respondent's conviction may be vacated and the
20 information dismissed with prejudice, in which case the court shall
21 enter an order establishing the amount of restitution still owed to the
22 victims. The restitution order shall continue in effect after entry of
23 the order dismissing the information. In the restitution order, the
24 court shall also determine the terms and conditions of the restitution,
25 including a payment plan extending up to ten years if the court
26 determines that the respondent does not have the means to make full
27 restitution over a shorter period. For the purposes of this
28 subsection, the respondent shall remain under the court's jurisdiction
29 for a maximum term of ten years after the respondent's eighteenth
30 birthday. Prior to the expiration of the initial ten-year period, the
31 juvenile court may extend the judgment for restitution an additional
32 ten years. The court may relieve the respondent of the requirement to
33 pay full or partial restitution to any insurance provider authorized
34 under Title 48 RCW if the respondent reasonably satisfies the court
35 that he or she does not have the means to make full or partial
36 restitution to the insurance provider and could not reasonably acquire
37 the means to pay the insurance provider the restitution over a ten-year
38 period. If the court relieves the respondent of the requirement to pay

1 full or partial restitution to an insurance provider, the court may
2 order an amount of community restitution that the court deems
3 appropriate. The county clerk shall make disbursements to victims
4 named in the order. The restitution to victims named in the order
5 shall be paid prior to any payment for other penalties or monetary
6 assessments.

7 (10)(a) Records of deferred disposition cases vacated under
8 subsection (9) of this section shall be sealed no later than thirty
9 days after the juvenile's eighteenth birthday provided that the
10 juvenile does not have any charges pending at that time and full
11 restitution has been paid. If a juvenile has already reached his or
12 her eighteenth birthday before July 26, 2009, (~~and~~) does not have any
13 charges pending, and full restitution has been paid, he or she may
14 request that the court issue an order sealing the records of his or her
15 deferred disposition cases vacated under subsection (9) of this
16 section, and this request shall be granted. Nothing in this subsection
17 shall preclude a juvenile from petitioning the court to have the
18 records of his or her deferred dispositions sealed under RCW 13.50.050
19 (11) and (12).

20 (b) Records sealed under this provision shall have the same legal
21 status as records sealed under RCW 13.50.050.

22 **Sec. 2.** RCW 46.20.270 and 2009 c 181 s 1 are each amended to read
23 as follows:

24 (1) Whenever any person is convicted of any offense for which this
25 title makes mandatory the withholding of the driving privilege of such
26 person by the department, the court in which such conviction is had
27 shall forthwith mark the person's Washington state driver's license or
28 permit to drive, if any, in a manner authorized by the department. A
29 valid driver's license or permit to drive marked under this subsection
30 shall remain in effect until the person's driving privilege is withheld
31 by the department pursuant to notice given under RCW 46.20.245, unless
32 the license or permit expires or otherwise becomes invalid prior to the
33 effective date of this action. Perfection of notice of appeal shall
34 stay the execution of sentence including the withholding of the driving
35 privilege.

36 (2) Every court having jurisdiction over offenses committed under
37 this chapter, or any other act of this state or municipal ordinance

1 adopted by a local authority regulating the operation of motor vehicles
2 on highways, or any federal authority having jurisdiction over offenses
3 substantially the same as those set forth in this title (~~46 RCW~~)
4 which occur on federal installations within this state, shall
5 immediately forward to the department a forfeiture of bail or
6 collateral deposited to secure the defendant's appearance in court, a
7 payment of a fine, penalty, or court cost, a plea of guilty or nolo
8 contendere or a finding of guilt, or a finding that any person has
9 committed a traffic infraction an abstract of the court record in the
10 form prescribed by rule of the supreme court, showing the conviction of
11 any person or the finding that any person has committed a traffic
12 infraction in said court for a violation of any said laws other than
13 regulations governing standing, stopping, parking, and pedestrian
14 offenses.

15 (3) Every state agency or municipality having jurisdiction over
16 offenses committed under this chapter, or under any other act of this
17 state or municipal ordinance adopted by a state or local authority
18 regulating the operation of motor vehicles on highways, may forward to
19 the department within ten days of failure to respond, failure to pay a
20 penalty, failure to appear at a hearing to contest the determination
21 that a violation of any statute, ordinance, or regulation relating to
22 standing, stopping, parking, or other infraction issued under RCW
23 46.63.030(1)(d) has been committed, or failure to appear at a hearing
24 to explain mitigating circumstances, an abstract of the citation record
25 in the form prescribed by rule of the department, showing the finding
26 by such municipality that two or more violations of laws governing
27 standing, stopping, and parking or one or more other infractions issued
28 under RCW 46.63.030(1)(d) have been committed and indicating the nature
29 of the defendant's failure to act. Such violations or infractions may
30 not have occurred while the vehicle is stolen from the registered owner
31 or is leased or rented under a bona fide commercial vehicle lease or
32 rental agreement between a lessor engaged in the business of leasing
33 vehicles and a lessee who is not the vehicle's registered owner. The
34 department may enter into agreements of reciprocity with the duly
35 authorized representatives of the states for reporting to each other
36 violations of laws governing standing, stopping, and parking.

37 (4) For the purposes of this title and except as defined in RCW
38 46.25.010, "conviction" means a final conviction or juvenile

1 adjudication in a state or municipal court or by any federal authority
2 having jurisdiction over offenses substantially the same as those set
3 forth in this title which occur on federal installations in this state,
4 an unvacated forfeiture of bail or collateral deposited to secure a
5 defendant's appearance in court, the payment of a fine or court cost,
6 a plea of guilty or nolo contendere, or a finding of guilt on a traffic
7 law violation charge, regardless of whether the imposition of sentence
8 or sanctions are deferred or the penalty is suspended, but not
9 including entry into a deferred prosecution agreement under chapter
10 10.05 RCW.

11 (5) For the purposes of this title, "finding that a traffic
12 infraction has been committed" means a failure to respond to a notice
13 of infraction or a determination made by a court pursuant to this
14 chapter. Payment of a monetary penalty made pursuant to RCW
15 46.63.070(2) is deemed equivalent to such a finding.

16 **Sec. 3.** RCW 46.20.270 and 2010 c 249 s 11 are each amended to read
17 as follows:

18 (1) Whenever any person is convicted of any offense for which this
19 title makes mandatory the withholding of the driving privilege of such
20 person by the department, the court in which such conviction is had
21 shall forthwith mark the person's Washington state driver's license or
22 permit to drive, if any, in a manner authorized by the department. A
23 valid driver's license or permit to drive marked under this subsection
24 shall remain in effect until the person's driving privilege is withheld
25 by the department pursuant to notice given under RCW 46.20.245, unless
26 the license or permit expires or otherwise becomes invalid prior to the
27 effective date of this action. Perfection of notice of appeal shall
28 stay the execution of sentence including the withholding of the driving
29 privilege.

30 (2) Every court having jurisdiction over offenses committed under
31 this chapter, or any other act of this state or municipal ordinance
32 adopted by a local authority regulating the operation of motor vehicles
33 on highways, or any federal authority having jurisdiction over offenses
34 substantially the same as those set forth in this title which occur on
35 federal installations within this state, shall immediately forward to
36 the department a forfeiture of bail or collateral deposited to secure
37 the defendant's appearance in court, a payment of a fine, penalty, or

1 court cost, a plea of guilty or nolo contendere or a finding of guilt,
2 or a finding that any person has committed a traffic infraction an
3 abstract of the court record in the form prescribed by rule of the
4 supreme court, showing the conviction of any person or the finding that
5 any person has committed a traffic infraction in said court for a
6 violation of any said laws other than regulations governing standing,
7 stopping, parking, and pedestrian offenses.

8 (3) Every state agency or municipality having jurisdiction over
9 offenses committed under this chapter, or under any other act of this
10 state or municipal ordinance adopted by a state or local authority
11 regulating the operation of motor vehicles on highways, may forward to
12 the department within ten days of failure to respond, failure to pay a
13 penalty, failure to appear at a hearing to contest the determination
14 that a violation of any statute, ordinance, or regulation relating to
15 standing, stopping, parking, or civil penalties issued under RCW
16 46.63.160 has been committed, or failure to appear at a hearing to
17 explain mitigating circumstances, an abstract of the citation record in
18 the form prescribed by rule of the department, showing the finding by
19 such municipality that two or more violations of laws governing
20 standing, stopping, and parking or one or more civil penalties issued
21 under RCW 46.63.160 have been committed and indicating the nature of
22 the defendant's failure to act. Such violations or infractions may not
23 have occurred while the vehicle is stolen from the registered owner or
24 is leased or rented under a bona fide commercial vehicle lease or
25 rental agreement between a lessor engaged in the business of leasing
26 vehicles and a lessee who is not the vehicle's registered owner. The
27 department may enter into agreements of reciprocity with the duly
28 authorized representatives of the states for reporting to each other
29 violations of laws governing standing, stopping, and parking.

30 (4) For the purposes of this title and except as defined in RCW
31 46.25.010, "conviction" means a final conviction or juvenile
32 adjudication in a state or municipal court or by any federal authority
33 having jurisdiction over offenses substantially the same as those set
34 forth in this title which occur on federal installations in this state,
35 an unvacated forfeiture of bail or collateral deposited to secure a
36 defendant's appearance in court, the payment of a fine or court cost,
37 a plea of guilty or nolo contendere, or a finding of guilt on a traffic
38 law violation charge, regardless of whether the imposition of sentence

1 or sanctions are deferred or the penalty is suspended, but not
2 including entry into a deferred prosecution agreement under chapter
3 10.05 RCW.

4 (5) For the purposes of this title, "finding that a traffic
5 infraction has been committed" means a failure to respond to a notice
6 of infraction or a determination made by a court pursuant to this
7 chapter. Payment of a monetary penalty made pursuant to RCW
8 46.63.070(2) is deemed equivalent to such a finding.

9 **Sec. 4.** RCW 9.41.040 and 2009 c 293 s 1 are each amended to read
10 as follows:

11 (1)(a) A person, whether an adult or juvenile, is guilty of the
12 crime of unlawful possession of a firearm in the first degree, if the
13 person owns, has in his or her possession, or has in his or her control
14 any firearm after having previously been convicted or found not guilty
15 by reason of insanity in this state or elsewhere of any serious offense
16 as defined in this chapter.

17 (b) Unlawful possession of a firearm in the first degree is a class
18 B felony punishable according to chapter 9A.20 RCW.

19 (2)(a) A person, whether an adult or juvenile, is guilty of the
20 crime of unlawful possession of a firearm in the second degree, if the
21 person does not qualify under subsection (1) of this section for the
22 crime of unlawful possession of a firearm in the first degree and the
23 person owns, has in his or her possession, or has in his or her control
24 any firearm:

25 (i) After having previously been convicted or found not guilty by
26 reason of insanity in this state or elsewhere of any felony not
27 specifically listed as prohibiting firearm possession under subsection
28 (1) of this section, or any of the following crimes when committed by
29 one family or household member against another, committed on or after
30 July 1, 1993: Assault in the fourth degree, coercion, stalking,
31 reckless endangerment, criminal trespass in the first degree, or
32 violation of the provisions of a protection order or no-contact order
33 restraining the person or excluding the person from a residence (RCW
34 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

35 (ii) After having previously been involuntarily committed for
36 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,

1 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
2 jurisdiction, unless his or her right to possess a firearm has been
3 restored as provided in RCW 9.41.047;

4 (iii) If the person is under eighteen years of age, except as
5 provided in RCW 9.41.042; and/or

6 (iv) If the person is free on bond or personal recognizance pending
7 trial, appeal, or sentencing for a serious offense as defined in RCW
8 9.41.010.

9 (b) Unlawful possession of a firearm in the second degree is a
10 class C felony punishable according to chapter 9A.20 RCW.

11 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as
12 used in this chapter, a person has been "convicted", whether in an
13 adult court or adjudicated in a juvenile court, at such time as a plea
14 of guilty has been accepted, or a verdict of guilty has been filed,
15 notwithstanding the pendency of any future proceedings including but
16 not limited to sentencing or disposition, post-trial or post-
17 factfinding motions, and appeals. Conviction includes a dismissal
18 entered after a deferred disposition pursuant to RCW 13.40.127, period
19 of probation, suspension or deferral of sentence, and also includes
20 equivalent dispositions by courts in jurisdictions other than
21 Washington state. A person shall not be precluded from possession of
22 a firearm if the conviction has been the subject of a pardon,
23 annulment, certificate of rehabilitation, or other equivalent procedure
24 based on a finding of the rehabilitation of the person convicted or the
25 conviction or disposition has been the subject of a pardon, annulment,
26 or other equivalent procedure based on a finding of innocence. Where
27 no record of the court's disposition of the charges can be found, there
28 shall be a rebuttable presumption that the person was not convicted of
29 the charge.

30 (4) Notwithstanding subsection (1) or (2) of this section, a person
31 convicted or found not guilty by reason of insanity of an offense
32 prohibiting the possession of a firearm under this section other than
33 murder, manslaughter, robbery, rape, indecent liberties, arson,
34 assault, kidnapping, extortion, burglary, or violations with respect to
35 controlled substances under RCW 69.50.401 and 69.50.410, who received
36 a probationary sentence under RCW 9.95.200, and who received a
37 dismissal of the charge under RCW 9.95.240, shall not be precluded from
38 possession of a firearm as a result of the conviction or finding of not

1 guilty by reason of insanity. Notwithstanding any other provisions of
2 this section, if a person is prohibited from possession of a firearm
3 under subsection (1) or (2) of this section and has not previously been
4 convicted or found not guilty by reason of insanity of a sex offense
5 prohibiting firearm ownership under subsection (1) or (2) of this
6 section and/or any felony defined under any law as a class A felony or
7 with a maximum sentence of at least twenty years, or both, the
8 individual may petition a court of record to have his or her right to
9 possess a firearm restored:

10 (a) Under RCW 9.41.047; and/or

11 (b)(i) If the conviction or finding of not guilty by reason of
12 insanity was for a felony offense, after five or more consecutive years
13 in the community without being convicted or found not guilty by reason
14 of insanity or currently charged with any felony, gross misdemeanor, or
15 misdemeanor crimes, if the individual has no prior felony convictions
16 that prohibit the possession of a firearm counted as part of the
17 offender score under RCW 9.94A.525; or

18 (ii) If the conviction or finding of not guilty by reason of
19 insanity was for a nonfelony offense, after three or more consecutive
20 years in the community without being convicted or found not guilty by
21 reason of insanity or currently charged with any felony, gross
22 misdemeanor, or misdemeanor crimes, if the individual has no prior
23 felony convictions that prohibit the possession of a firearm counted as
24 part of the offender score under RCW 9.94A.525 and the individual has
25 completed all conditions of the sentence.

26 (5) In addition to any other penalty provided for by law, if a
27 person under the age of eighteen years is found by a court to have
28 possessed a firearm in a vehicle in violation of subsection (1) or (2)
29 of this section or to have committed an offense while armed with a
30 firearm during which offense a motor vehicle served an integral
31 function, the court shall notify the department of licensing within
32 twenty-four hours and the person's privilege to drive shall be revoked
33 under RCW 46.20.265.

34 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or
35 interpreted as preventing an offender from being charged and
36 subsequently convicted for the separate felony crimes of theft of a
37 firearm or possession of a stolen firearm, or both, in addition to
38 being charged and subsequently convicted under this section for

1 unlawful possession of a firearm in the first or second degree.
2 Notwithstanding any other law, if the offender is convicted under this
3 section for unlawful possession of a firearm in the first or second
4 degree and for the felony crimes of theft of a firearm or possession of
5 a stolen firearm, or both, then the offender shall serve consecutive
6 sentences for each of the felony crimes of conviction listed in this
7 subsection.

8 (7) Each firearm unlawfully possessed under this section shall be
9 a separate offense.

10 **Sec. 5.** RCW 13.04.155 and 2000 c 27 s 1 are each amended to read
11 as follows:

12 (1) Whenever a minor enrolled in any common school is convicted in
13 adult criminal court, (~~(or)~~) adjudicated, found guilty pursuant to RCW
14 13.40.127, or entered into a diversion agreement with the juvenile
15 court on any of the following offenses, the court must notify the
16 principal of the student's school of the disposition of the case, after
17 first notifying the parent or legal guardian that such notification
18 will be made:

- 19 (a) A violent offense as defined in RCW 9.94A.030;
20 (b) A sex offense as defined in RCW 9.94A.030;
21 (c) Inhaling toxic fumes under chapter 9.47A RCW;
22 (d) A controlled substances violation under chapter 69.50 RCW;
23 (e) A liquor violation under RCW 66.44.270; and
24 (f) Any crime under chapters 9.41, 9A.36, 9A.40, 9A.46, and 9A.48
25 RCW.

26 (2) The principal must provide the information received under
27 subsection (1) of this section to every teacher of any student who
28 qualifies under subsection (1) of this section and any other personnel
29 who, in the judgment of the principal, supervises the student or for
30 security purposes should be aware of the student's record. The
31 principal must provide the information to teachers and other personnel
32 based on any written records that the principal maintains or receives
33 from a juvenile court administrator or a law enforcement agency
34 regarding the student.

35 (3) Any information received by a principal or school personnel
36 under this section is confidential and may not be further disseminated

1 except as provided in RCW 28A.225.330, other statutes or case law, and
2 the family and educational and privacy rights act of 1994, 20 U.S.C.
3 Sec. 1232g et seq.

4 **Sec. 6.** RCW 13.40.180 and 2002 c 175 s 24 are each amended to read
5 as follows:

6 (1) Where a disposition in a single disposition order is imposed on
7 a youth for two or more offenses, the terms shall run consecutively,
8 subject to the following limitations:

9 ~~((1))~~ (a) Where the offenses were committed through a single act
10 or omission, omission, or through an act or omission which in itself
11 constituted one of the offenses and also was an element of the other,
12 the aggregate of all the terms shall not exceed one hundred fifty
13 percent of the term imposed for the most serious offense;

14 ~~((2))~~ (b) The aggregate of all consecutive terms shall not exceed
15 three hundred percent of the term imposed for the most serious offense;
16 and

17 ~~((3))~~ (c) The aggregate of all consecutive terms of community
18 supervision shall not exceed two years in length, or require payment of
19 more than two hundred dollars in fines or the performance of more than
20 two hundred hours of community restitution.

21 (2) Where disposition in separate disposition orders is imposed on
22 a youth, the periods of community supervision in the separate orders,
23 if any, shall run concurrently and the periods of detention in the
24 separate orders, if any, shall run consecutively.

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