
SENATE BILL 5580

State of Washington

62nd Legislature

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By Senators Regala and Kline

Read first time 01/31/11. Referred to Committee on Human Services & Corrections.

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
19 deferred disposition before deferring the disposition. If the motion

1 is made before commencement of trial, the court may waive the fourteen-
2 day period for good cause shown. If the motion is made after the trial
3 commences, the court may only waive the fourteen-day requirement for
4 good cause shown if the juvenile pleads to or is found guilty of an
5 offense that is eligible for deferred disposition, having been charged
6 with and trial commenced for an offense that was not eligible for
7 deferred disposition.

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

9 (a) Stipulate to the admissibility of the facts contained in the
10 written police report;

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

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

16 (d) Acknowledge the direct consequences of being found guilty and
17 the direct consequences that will happen if an order of disposition is
18 entered.

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

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

24 (5) Any juvenile granted a deferral of disposition under this
25 section shall be placed under community supervision. The court may
26 impose any conditions of supervision that it deems appropriate
27 including posting a probation bond. Payment of restitution under RCW
28 13.40.190 shall be a condition of community supervision under this
29 section.

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

37 (6) A parent who signed for a probation bond has the right to
38 notify the counselor if the juvenile fails to comply with the bond or

1 conditions of supervision. The counselor shall notify the court and
2 surety of any failure to comply. A surety shall notify the court of
3 the juvenile's failure to comply with the probation bond. The state
4 shall bear the burden to prove, by a preponderance of the evidence,
5 that the juvenile has failed to comply with the terms of community
6 supervision.

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

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

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

1 the restitution over a ten-year period. If the court relieves the
2 respondent of the requirement to pay full or partial restitution, the
3 court may order an amount of community restitution that the court deems
4 appropriate. The county clerk shall make disbursements to victims
5 named in the order. The restitution to victims named in the order
6 shall be paid prior to any payment for other penalties or monetary
7 assessments. A respondent under obligation to pay restitution may
8 petition the court for modification of the restitution order.

9 (10)(a) Records of deferred disposition cases vacated under
10 subsection (9) of this section shall be sealed no later than thirty
11 days after the juvenile's eighteenth birthday provided that the
12 juvenile does not have any charges pending at that time. If a juvenile
13 has already reached his or her eighteenth birthday before July 26,
14 2009, and does not have any charges pending, he or she may request that
15 the court issue an order sealing the records of his or her deferred
16 disposition cases vacated under subsection (9) of this section, and
17 this request shall be granted. Nothing in this subsection shall
18 preclude a juvenile from petitioning the court to have the records of
19 his or her deferred dispositions sealed under RCW 13.50.050 (11) and
20 (12).

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

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

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

37 (2) Every court having jurisdiction over offenses committed under

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

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

38 (4) For the purposes of this title and except as defined in RCW

1 46.25.010, "conviction" means a final conviction or juvenile
2 adjudication in a state or municipal court or by any federal authority
3 having jurisdiction over offenses substantially the same as those set
4 forth in this title which occur on federal installations in this state,
5 an unvacated forfeiture of bail or collateral deposited to secure a
6 defendant's appearance in court, the payment of a fine or court cost,
7 a plea of guilty or nolo contendere, or a finding of guilt on a traffic
8 law violation charge, regardless of whether the imposition of sentence
9 or sanctions are deferred or the penalty is suspended, but not
10 including entry into a deferred prosecution agreement under chapter
11 10.05 RCW.

12 (5) For the purposes of this title, "finding that a traffic
13 infraction has been committed" means a failure to respond to a notice
14 of infraction or a determination made by a court pursuant to this
15 chapter. Payment of a monetary penalty made pursuant to RCW
16 46.63.070(2) is deemed equivalent to such a finding.

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

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

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

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

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

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

1 law violation charge, regardless of whether the imposition of sentence
2 or sanctions are deferred or the penalty is suspended, but not
3 including entry into a deferred prosecution agreement under chapter
4 10.05 RCW.

5 (5) For the purposes of this title, "finding that a traffic
6 infraction has been committed" means a failure to respond to a notice
7 of infraction or a determination made by a court pursuant to this
8 chapter. Payment of a monetary penalty made pursuant to RCW
9 46.63.070(2) is deemed equivalent to such a finding.

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

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

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

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

26 (i) After having previously been convicted or found not guilty by
27 reason of insanity in this state or elsewhere of any felony not
28 specifically listed as prohibiting firearm possession under subsection
29 (1) of this section, or any of the following crimes when committed by
30 one family or household member against another, committed on or after
31 July 1, 1993: Assault in the fourth degree, coercion, stalking,
32 reckless endangerment, criminal trespass in the first degree, or
33 violation of the provisions of a protection order or no-contact order
34 restraining the person or excluding the person from a residence (RCW
35 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

36 (ii) After having previously been involuntarily committed for
37 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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