
SUBSTITUTE HOUSE BILL 2164

State of Washington 63rd Legislature 2014 Regular Session

By House Judiciary (originally sponsored by Representatives Orwall, Appleton, Carlyle, and Ryu)

READ FIRST TIME 01/23/14.

1 AN ACT Relating to evidence-based and research-based interventions
2 for juvenile firearm offenders; and amending RCW 13.40.193 and
3 13.40.127.

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

5 **Sec. 1.** RCW 13.40.193 and 2003 c 53 s 100 are each amended to read
6 as follows:

7 (1) If a respondent is found to have been in possession of a
8 firearm in violation of RCW 9.41.040(2)(a)(iii), the court shall impose
9 a minimum disposition of ten days of confinement. If the offender's
10 standard range of disposition for the offense as indicated in RCW
11 13.40.0357 is more than thirty days of confinement, the court shall
12 commit the offender to the department for the standard range
13 disposition. The offender shall not be released until the offender has
14 served a minimum of ten days in confinement.

15 (2)(a) If a respondent is found to have been in possession of a
16 firearm in violation of RCW 9.41.040, the disposition must include a
17 requirement that the respondent participate in a qualifying program as
18 described in (b) of this subsection, when available, unless the court
19 makes a written finding based on the outcome of the juvenile court risk

1 assessment that participation in a qualifying program would not be
2 appropriate. The finding must be based on factors other than the
3 respondent's overall risk level classification.

4 (b) For purposes of this section, "qualifying program" means an
5 aggression replacement training program, a functional family therapy
6 program, or another program applicable to the juvenile firearm offender
7 population that has been identified as evidence-based or research-based
8 and cost-beneficial in the current list prepared at the direction of
9 the legislature by the Washington state institute for public policy.

10 (3) If the court finds that the respondent or an accomplice was
11 armed with a firearm, the court shall determine the standard range
12 disposition for the offense pursuant to RCW 13.40.160. If the offender
13 or an accomplice was armed with a firearm when the offender committed
14 any felony other than possession of a machine gun, possession of a
15 stolen firearm, drive-by shooting, theft of a firearm, unlawful
16 possession of a firearm in the first and second degree, or use of a
17 machine gun in a felony, the following periods of total confinement
18 must be added to the sentence: For a class A felony, six months; for
19 a class B felony, four months; and for a class C felony, two months.
20 The additional time shall be imposed regardless of the offense's
21 juvenile disposition offense category as designated in RCW 13.40.0357.

22 ~~((3))~~ (4) When a disposition under this section would effectuate
23 a manifest injustice, the court may impose another disposition. When
24 a judge finds a manifest injustice and imposes a disposition of
25 confinement exceeding thirty days, the court shall commit the juvenile
26 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used
27 to determine the range. When a judge finds a manifest injustice and
28 imposes a disposition of confinement less than thirty days, the
29 disposition shall be comprised of confinement or community supervision
30 or both.

31 ~~((4))~~ (5) Any term of confinement ordered pursuant to this
32 section shall run consecutively to any term of confinement imposed in
33 the same disposition for other offenses.

34 **Sec. 2.** RCW 13.40.127 and 2013 c 179 s 5 are each amended to read
35 as follows:

36 (1) A juvenile is eligible for deferred disposition unless he or
37 she:

- 1 (a) Is charged with a sex or violent offense;
2 (b) Has a criminal history which includes any felony;
3 (c) Has a prior deferred disposition or deferred adjudication; or
4 (d) Has two or more adjudications.

5 (2) The juvenile court may, upon motion at least fourteen days
6 before commencement of trial and, after consulting the juvenile's
7 custodial parent or parents or guardian and with the consent of the
8 juvenile, continue the case for disposition for a period not to exceed
9 one year from the date the juvenile is found guilty. The court shall
10 consider whether the offender and the community will benefit from a
11 deferred disposition before deferring the disposition. The court may
12 waive the fourteen-day period anytime before the commencement of trial
13 for good cause.

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

15 (a) Stipulate to the admissibility of the facts contained in the
16 written police report;

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

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

22 (d) Acknowledge the direct consequences of being found guilty and
23 the direct consequences that will happen if an order of disposition is
24 entered.

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

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

30 (5) Any juvenile granted a deferral of disposition under this
31 section shall be placed under community supervision. The court may
32 impose any conditions of supervision that it deems appropriate
33 including posting a probation bond. Payment of restitution under RCW
34 13.40.190 shall be a condition of community supervision under this
35 section.

36 The court may require a juvenile offender convicted of animal
37 cruelty in the first degree to submit to a mental health evaluation to
38 determine if the offender would benefit from treatment and such

1 intervention would promote the safety of the community. After
2 consideration of the results of the evaluation, as a condition of
3 community supervision, the court may order the offender to attend
4 treatment to address issues pertinent to the offense.

5 The court may require the juvenile to undergo a mental health or
6 substance abuse assessment, or both. If the assessment identifies a
7 need for treatment, conditions of supervision may include treatment for
8 the assessed need that has been demonstrated to improve behavioral
9 health and reduce recidivism.

10 The court shall require a juvenile granted a deferral of
11 disposition for unlawful possession of a firearm in violation of RCW
12 9.41.040 to participate in a qualifying program as described in RCW
13 13.40.193(2)(b), when available, unless the court makes a written
14 finding based on the outcome of the juvenile court risk assessment that
15 participation in a qualifying program would not be appropriate. The
16 finding must be based on factors other than the juvenile's overall risk
17 level classification.

18 (6) A parent who signed for a probation bond has the right to
19 notify the counselor if the juvenile fails to comply with the bond or
20 conditions of supervision. The counselor shall notify the court and
21 surety of any failure to comply. A surety shall notify the court of
22 the juvenile's failure to comply with the probation bond. The state
23 shall bear the burden to prove, by a preponderance of the evidence,
24 that the juvenile has failed to comply with the terms of community
25 supervision.

26 (7)(a) Anytime prior to the conclusion of the period of
27 supervision, the prosecutor or the juvenile's juvenile court community
28 supervision counselor may file a motion with the court requesting the
29 court revoke the deferred disposition based on the juvenile's lack of
30 compliance or treat the juvenile's lack of compliance as a violation
31 pursuant to RCW 13.40.200.

32 (b) If the court finds the juvenile failed to comply with the terms
33 of the deferred disposition, the court may:

34 (i) Revoke the deferred disposition and enter an order of
35 disposition; or

36 (ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

37 (8) At any time following deferral of disposition the court may,

1 following a hearing, continue supervision for an additional one-year
2 period for good cause.

3 (9)(a) At the conclusion of the period of supervision, the court
4 shall determine whether the juvenile is entitled to dismissal of the
5 deferred disposition only when the court finds:

6 (i) The deferred disposition has not been previously revoked;

7 (ii) The juvenile has completed the terms of supervision;

8 (iii) There are no pending motions concerning lack of compliance
9 pursuant to subsection (7) of this section; and

10 (iv) The juvenile has either paid the full amount of restitution,
11 or, made a good faith effort to pay the full amount of restitution
12 during the period of supervision.

13 (b) If the court finds the juvenile is entitled to dismissal of the
14 deferred disposition pursuant to (a) of this subsection, the juvenile's
15 conviction shall be vacated and the court shall dismiss the case with
16 prejudice, except that a conviction under RCW 16.52.205 shall not be
17 vacated. Whenever a case is dismissed with restitution still owing,
18 the court shall enter a restitution order pursuant to RCW 13.40.190 for
19 any unpaid restitution. Jurisdiction to enforce payment and modify
20 terms of the restitution order shall be the same as those set forth in
21 RCW 13.40.190.

22 (c) If the court finds the juvenile is not entitled to dismissal of
23 the deferred disposition pursuant to (a) of this subsection, the court
24 shall revoke the deferred disposition and enter an order of
25 disposition. A deferred disposition shall remain a conviction unless
26 the case is dismissed and the conviction is vacated pursuant to (b) of
27 this subsection or sealed pursuant to RCW 13.50.050.

28 (10)(a)(i) Any time the court vacates a conviction pursuant to
29 subsection (9) of this section, if the juvenile is eighteen years of
30 age or older and the full amount of restitution ordered has been paid,
31 the court shall enter a written order sealing the case.

32 (ii) Any time the court vacates a conviction pursuant to subsection
33 (9) of this section, if the juvenile is not eighteen years of age or
34 older and full restitution ordered has been paid, the court shall
35 schedule an administrative sealing hearing to take place no later than
36 thirty days after the respondent's eighteenth birthday, at which time
37 the court shall enter a written order sealing the case. The

1 respondent's presence at the administrative sealing hearing is not
2 required.

3 (iii) Any deferred disposition vacated prior to June 7, 2012, is
4 not subject to sealing under this subsection.

5 (b) Nothing in this subsection shall preclude a juvenile from
6 petitioning the court to have the records of his or her deferred
7 dispositions sealed under RCW 13.50.050 (11) and (12).

8 (c) Records sealed under this provision shall have the same legal
9 status as records sealed under RCW 13.50.050.

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