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**HOUSE BILL 2064**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Frame, Ortiz-Self, Goodman, Callan, Senn, Thai, and Davis

AN ACT Relating to juvenile justice; amending RCW 13.40.020, 13.04.030, 13.40.0357, 13.40.110, 13.40.300, and 43.20C.020; adding new sections to chapter 72.05 RCW; adding new sections to chapter 13.40 RCW; creating a new section; and providing expiration dates.

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

NEW SECTION. **Sec.**  The legislature intends to expand the programming available to individuals serving a term of confinement in juvenile rehabilitation institutions to improve rehabilitation and public safety outcomes. The legislature also intends to correct sentencing and jurisdictional requirements related to chapter 162, Laws of 2018 (Engrossed Second Substitute Senate Bill No. 6160).

The legislature further intends to refine requirements for juvenile justice program funding for juvenile courts to improve the performance monitoring and technical assistance provided to juvenile courts.

The legislature intends to include rehabilitation services specially designed for individuals ages eighteen through twenty-five with criminal justice experience in the inventory of evidence-based, research-based, and promising practices produced by the Washington state institute for public policy and the evidence-based practice institute at the University of Washington.

To further improve outcomes for individuals served by the juvenile justice system and those providing those services, the legislature encourages the department of children, youth, and families to implement trauma informed practices in the training and responses provided to employees working in juvenile rehabilitation. The legislature further encourages the department of children, youth, and families to expand access to postsecondary education for individuals serving a term of confinement with the department of children, youth, and families.

**Sec.**  RCW 13.40.020 and 2018 c 82 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, family and youth development programs, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews and may be performed while an individual is serving confinement;

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, or chemical dependency professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than sixty days after the youth begins inpatient treatment, and every thirty days thereafter, as long as the youth is in inpatient treatment;

(6) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(7) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(8) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(9) "Department" means the department of children, youth, and families;

(10) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(11) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(12) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(14) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(15) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(16) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(18) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) $0-$500 fine;

(19) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(20) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(21) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(22) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(23) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(24) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(25) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(26) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(27) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

(28) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(29) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(30) "Secretary" means the secretary of the department;

(31) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(32) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(33) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(34) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

(35) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

(36) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(37) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(38) "Youth court" means a diversion unit under the supervision of the juvenile court.

(39) "Community juvenile accountability act advisory committee" means a committee consisting of an equal number of representatives from the department and juvenile courts. The purpose of the committee is to provide oversight and structure to the juvenile courts in an effort to provide a continuum of research-based programs consistent with state law. The committee is cochaired by a representative from the department and a representative from the juvenile courts.

**Sec.**  RCW 13.04.030 and 2018 c 162 s 2 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of ((~~a lesser included~~)) an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d). ((~~However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.~~))

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services and the department of children, youth, and families.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapters 26.09 ((~~and 26.26~~)), 26.26A, or 26.26B RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec.**  RCW 13.40.0357 and 2018 c 162 s 3 are each amended to read as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DESCRIPTION AND OFFENSE CATEGORY** | | | | |
| juvenile  disposition  offense  category | | description (rcw citation) | juvenile disposition  category for  attempt, bailjump,  conspiracy, or  solicitation | |
|  | | **Arson and Malicious Mischief** | | |
|  | A | Arson 1 (9A.48.020) | | B+ |
|  | B | Arson 2 (9A.48.030) | | C |
|  | C | Reckless Burning 1 (9A.48.040) | | D |
|  | D | Reckless Burning 2 (9A.48.050) | | E |
|  | B | Malicious Mischief 1 (9A.48.070) | | C |
|  | C | Malicious Mischief 2 (9A.48.080) | | D |
|  | D | Malicious Mischief 3 (9A.48.090) | | E |
|  | E | Tampering with Fire Alarm Apparatus (9.40.100) | | E |
|  | E | Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105) | | E |
|  | A | Possession of Incendiary Device (9.40.120) | | B+ |
|  |  | **Assault and Other Crimes Involving Physical Harm** | |  |
|  | A | Assault 1 (9A.36.011) | | B+ |
|  | B+ | Assault 2 (9A.36.021) | | C+ |
|  | C+ | Assault 3 (9A.36.031) | | D+ |
|  | D+ | Assault 4 (9A.36.041) | | E |
|  | B+ | Drive-By Shooting (9A.36.045) committed at age 15 or under | | C+ |
|  | A++ | Drive-By Shooting (9A.36.045) committed at age 16 or 17 | | ((~~A+~~)) A |
|  | D+ | Reckless Endangerment (9A.36.050) | | E |
|  | C+ | Promoting Suicide Attempt (9A.36.060) | | D+ |
|  | D+ | Coercion (9A.36.070) | | E |
|  | C+ | Custodial Assault (9A.36.100) | | D+ |
|  |  | **Burglary and Trespass** | |  |
|  | B+ | Burglary 1 (9A.52.020) committed at age 15 or under | | C+ |
|  | A- | Burglary 1 (9A.52.020) committed at age 16 or 17 | | B+ |
|  | B | Residential Burglary (9A.52.025) | | C |
|  | B | Burglary 2 (9A.52.030) | | C |
|  | D | Burglary Tools (Possession of) (9A.52.060) | | E |
|  | D | Criminal Trespass 1 (9A.52.070) | | E |
|  | E | Criminal Trespass 2 (9A.52.080) | | E |
|  | C | Mineral Trespass (78.44.330) | | C |
|  | C | Vehicle Prowling 1 (9A.52.095) | | D |
|  | D | Vehicle Prowling 2 (9A.52.100) | | E |
|  |  | **Drugs** | |  |
|  | E | Possession/Consumption of Alcohol (66.44.270) | | E |
|  | C | Illegally Obtaining Legend Drug (69.41.020) | | D |
|  | C+ | Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a)) | | D+ |
|  | E | Possession of Legend Drug (69.41.030(2)(b)) | | E |
|  | B+ | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b)) | | B+ |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c)) | | C |
|  | E | Possession of Marihuana <40 grams (69.50.4014) | | E |
|  | C | Fraudulently Obtaining Controlled Substance (69.50.403) | | C |
|  | C+ | Sale of Controlled Substance for Profit (69.50.410) | | C+ |
|  | E | Unlawful Inhalation (9.47A.020) | | E |
|  | B | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b)) | | B |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e)) | | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013) | | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012) | | C |
|  |  | **Firearms and Weapons** | |  |
|  | B | Theft of Firearm (9A.56.300) | | C |
|  | B | Possession of Stolen Firearm (9A.56.310) | | C |
|  | E | Carrying Loaded Pistol Without Permit (9.41.050) | | E |
|  | C | Possession of Firearms by Minor (<18) (9.41.040(2)(a) ((~~(iv)~~)) (v)) | | C |
|  | D+ | Possession of Dangerous Weapon (9.41.250) | | E |
|  | D | Intimidating Another Person by use of Weapon (9.41.270) | | E |
|  |  | **Homicide** | |  |
|  | A+ | Murder 1 (9A.32.030) | | A |
|  | A+ | Murder 2 (9A.32.050) | | B+ |
|  | B+ | Manslaughter 1 (9A.32.060) | | C+ |
|  | C+ | Manslaughter 2 (9A.32.070) | | D+ |
|  | B+ | Vehicular Homicide (46.61.520) | | C+ |
|  |  | **Kidnapping** | |  |
|  | A | Kidnap 1 (9A.40.020) | | B+ |
|  | B+ | Kidnap 2 (9A.40.030) | | C+ |
|  | C+ | Unlawful Imprisonment (9A.40.040) | | D+ |
|  |  | **Obstructing Governmental Operation** | |  |
|  | D | Obstructing a Law Enforcement Officer (9A.76.020) | | E |
|  | E | Resisting Arrest (9A.76.040) | | E |
|  | B | Introducing Contraband 1 (9A.76.140) | | C |
|  | C | Introducing Contraband 2 (9A.76.150) | | D |
|  | E | Introducing Contraband 3 (9A.76.160) | | E |
|  | B+ | Intimidating a Public Servant (9A.76.180) | | C+ |
|  | B+ | Intimidating a Witness (9A.72.110) | | C+ |
|  |  | **Public Disturbance** | |  |
|  | C+ | Criminal Mischief with Weapon (9A.84.010(2)(b)) | | D+ |
|  | D+ | Criminal Mischief Without Weapon (9A.84.010(2)(a)) | | E |
|  | E | Failure to Disperse (9A.84.020) | | E |
|  | E | Disorderly Conduct (9A.84.030) | | E |
|  |  | **Sex Crimes** | |  |
|  | A | Rape 1 (9A.44.040) | | B+ |
|  | B++ | Rape 2 (9A.44.050) committed at age 14 or under | | B+ |
|  | A- | Rape 2 (9A.44.050) committed at age 15 through age 17 | | B+ |
|  | C+ | Rape 3 (9A.44.060) | | D+ |
|  | B++ | Rape of a Child 1 (9A.44.073) committed at age 14 or under | | B+ |
|  | A- | Rape of a Child 1 (9A.44.073) committed at age 15 | | B+ |
|  | B+ | Rape of a Child 2 (9A.44.076) | | C+ |
|  | B | Incest 1 (9A.64.020(1)) | | C |
|  | C | Incest 2 (9A.64.020(2)) | | D |
|  | D+ | Indecent Exposure (Victim <14) (9A.88.010) | | E |
|  | E | Indecent Exposure (Victim 14 or over) (9A.88.010) | | E |
|  | B+ | Promoting Prostitution 1 (9A.88.070) | | C+ |
|  | C+ | Promoting Prostitution 2 (9A.88.080) | | D+ |
|  | E | O & A (Prostitution) (9A.88.030) | | E |
|  | B+ | Indecent Liberties (9A.44.100) | | C+ |
|  | B++ | Child Molestation 1 (9A.44.083) committed at age 14 or under | | B+ |
|  | A- | Child Molestation 1 (9A.44.083) committed at age 15 through age 17 | | B+ |
|  | B | Child Molestation 2 (9A.44.086) | | C+ |
|  | C | Failure to Register as a Sex Offender (9A.44.132) | | D |
|  |  | **Theft, Robbery, Extortion, and Forgery** | |  |
|  | B | Theft 1 (9A.56.030) | | C |
|  | C | Theft 2 (9A.56.040) | | D |
|  | D | Theft 3 (9A.56.050) | | E |
|  | B | Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083) | | C |
|  | C | Forgery (9A.60.020) | | D |
|  | A | Robbery 1 (9A.56.200) committed at age 15 or under | | B+ |
|  | A++ | Robbery 1 (9A.56.200) committed at age 16 or 17 | | ((~~A+~~)) A |
|  | B+ | Robbery 2 (9A.56.210) | | C+ |
|  | B+ | Extortion 1 (9A.56.120) | | C+ |
|  | C+ | Extortion 2 (9A.56.130) | | D+ |
|  | C | Identity Theft 1 (9.35.020(2)) | | D |
|  | D | Identity Theft 2 (9.35.020(3)) | | E |
|  | D | Improperly Obtaining Financial Information (9.35.010) | | E |
|  | B | Possession of a Stolen Vehicle (9A.56.068) | | C |
|  | B | Possession of Stolen Property 1 (9A.56.150) | | C |
|  | C | Possession of Stolen Property 2 (9A.56.160) | | D |
|  | D | Possession of Stolen Property 3 (9A.56.170) | | E |
|  | B | Taking Motor Vehicle Without Permission 1 (9A.56.070) | | C |
|  | C | Taking Motor Vehicle Without Permission 2 (9A.56.075) | | D |
|  | B | Theft of a Motor Vehicle (9A.56.065) | | C |
|  |  | **Motor Vehicle Related Crimes** | |  |
|  | E | Driving Without a License (46.20.005) | | E |
|  | B+ | Hit and Run - Death (46.52.020(4)(a)) | | C+ |
|  | C | Hit and Run - Injury (46.52.020(4)(b)) | | D |
|  | D | Hit and Run-Attended (46.52.020(5)) | | E |
|  | E | Hit and Run-Unattended (46.52.010) | | E |
|  | C | Vehicular Assault (46.61.522) | | D |
|  | C | Attempting to Elude Pursuing Police Vehicle (46.61.024) | | D |
|  | E | Reckless Driving (46.61.500) | | E |
|  | D | Driving While Under the Influence (46.61.502 and 46.61.504) | | E |
|  | B+ | Felony Driving While Under the Influence (46.61.502(6)) | | B |
|  | B+ | Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6)) | | B |
|  |  | **Other** | |  |
|  | B | Animal Cruelty 1 (16.52.205) | | C |
|  | B | Bomb Threat (9.61.160) | | C |
|  | C | Escape 11  (9A.76.110) | | C |
|  | C | Escape 21  (9A.76.120) | | C |
|  | D | Escape 3 (9A.76.130) | | E |
|  | E | Obscene, Harassing, Etc., Phone Calls (9.61.230) | | E |
|  | A | Other Offense Equivalent to an Adult Class A Felony | | B+ |
|  | B | Other Offense Equivalent to an Adult Class B Felony | | C |
|  | C | Other Offense Equivalent to an Adult Class C Felony | | D |
|  | D | Other Offense Equivalent to an Adult Gross Misdemeanor | | E |
|  | E | Other Offense Equivalent to an Adult Misdemeanor | | E |
|  | V | Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)2 | | V |

1Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

2If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | OPTION A  JUVENILE OFFENDER SENTENCING GRID  STANDARD RANGE | | | | |
|  | A++ | 129 to 260 weeks for all category A++ offenses | | | | |
|  | A+ | 180 weeks to ((~~age 21~~)) the maximum age of juvenile court jurisdiction  for all category A+ offenses | | | | |
|  | A | 103-129 weeks for all category A offenses | | | | |
|  | A- | 30-40 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
|  | B++ | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
| CURRENT | B+ | 15-36 weeks | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks |
| OFFENSE | B | LS | LS | 15-36 weeks | 15-36 weeks | 52-65 weeks |
| CATEGORY | C+ | LS | LS | LS | 15-36 weeks | 15-36 weeks |
|  | C | LS | LS | LS | LS | 15-36 weeks |
|  | D+ | LS | LS | LS | LS | LS |
|  | D | LS | LS | LS | LS | LS |
|  | E | LS | LS | LS | LS | LS |
| PRIOR | | 0 | 1 | 2 | 3 | 4 or more |
| ADJUDICATIONS |  |  | | | |  |

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec.**  RCW 13.40.110 and 2018 c 162 s 4 are each amended to read as follows:

(1) Discretionary decline hearing - The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction only if:

(a) The respondent is, at the time of proceedings, at least fifteen years of age or older and is charged with a serious violent offense as defined in RCW 9.94A.030; ((~~or~~))

(b) The respondent is, at the time of proceedings, fourteen years of age or younger and is charged with murder in the first degree (RCW 9A.32.030), and/or murder in the second degree (RCW 9A.32.050); or

(c) The respondent is under age eighteen and: (i) Is charged with custodial assault under RCW 9A.36.100; (ii) has a criminal history which includes a prior conviction for custodial assault; and (iii) is serving a minimum juvenile sentence to age twenty-one or longer.

(2) Mandatory decline hearing - Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when the information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

(3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

**Sec.**  RCW 13.40.300 and 2018 c 162 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a juvenile offender may not be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile correctional institution beyond the juvenile offender's twenty-first birthday.

(2) A juvenile offender convicted of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), may be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile correctional institution up to the juvenile offender's twenty-fifth birthday, but not beyond.

(3) A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of children, youth, and families beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) Proceedings are pending seeking the adjudication of a juvenile offense and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday, except:

(i) If the court enters a written order extending jurisdiction under this subsection, it shall not extend jurisdiction beyond the juvenile's twenty-first birthday;

(ii) If the order fails to specify a specific date, it shall be presumed that jurisdiction is extended to age twenty-one; and

(iii) If the juvenile court previously extended jurisdiction beyond the juvenile's eighteenth birthday, and that period of extension has not expired, the court may further extend jurisdiction by written order setting forth its reasons;

(b) The juvenile has been found guilty after a fact finding or after a plea of guilty and an automatic extension is necessary to allow for the imposition of disposition;

(c) Disposition has been held and an automatic extension is necessary to allow for the execution and enforcement of the court's order of disposition, subject to the following:

(i) If an order of disposition imposes commitment to the department, then jurisdiction is automatically extended to include a period of up to twelve months of parole, in no case extending beyond the offender's twenty-first birthday, except;

(ii) If an order of disposition imposes a commitment to the department for a juvenile offender convicted of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), then jurisdiction for parole is automatically extended to include a period of up to twenty-four months of parole, in no case extending beyond the offender's twenty-fifth birthday;

(d) While proceedings are pending in a case in which jurisdiction is vested in the adult criminal court pursuant to RCW 13.04.030, the juvenile turns eighteen years of age and is subsequently found not guilty of the charge for which he or she was transferred, or is convicted in the adult criminal court of ((~~a lesser included~~)) an offense that is not also an offense listed under RCW 13.04.030(1)(e)(v), and an automatic extension is necessary to impose the juvenile disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

(e) Pursuant to the terms of RCW 13.40.190 and 13.40.198, the juvenile court maintains jurisdiction beyond the juvenile offender's twenty-first birthday for the purpose of enforcing an order of restitution or penalty assessment.

(4) Except as otherwise provided herein, in no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday.

(5) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older.

**Sec.**  RCW 43.20C.020 and 2014 c 225 s 66 are each amended to read as follows:

The department of social and health services and the department of children, youth, and families shall accomplish the following in consultation and collaboration with the Washington state institute for public policy, the evidence-based practice institute at the University of Washington, a university-based child welfare partnership and research entity, other national experts in the delivery of evidence-based services, and organizations representing Washington practitioners:

(1) ((~~By September 30, 2012,~~)) The Washington state institute for public policy, the University of Washington evidence-based practice institute, in consultation with the department of social and health services, the department of children, youth, and families, and the health care authority, shall publish descriptive definitions of evidence-based, research-based, and promising practices in the areas of child welfare, juvenile rehabilitation, rehabilitation services specially designed for individuals ages eighteen through twenty-five with criminal justice experience, and children's mental health services.

(a) In addition to descriptive definitions, the Washington state institute for public policy and the University of Washington evidence-based practice institute must prepare an inventory of evidence-based, research-based, and promising practices for prevention and intervention services that will be used for the purpose of completing the baseline assessment described in subsection (2) of this section. The inventory shall be periodically updated as more practices are identified.

(b) In identifying evidence-based and research-based services, the Washington state institute for public policy and the University of Washington evidence-based practice institute must:

(i) Consider any available systemic evidence-based assessment of a program's efficacy and cost-effectiveness; and

(ii) Attempt to identify assessments that use valid and reliable evidence.

(c) Using state, federal, or private funds, the departments shall prioritize the assessment of promising practices identified in (a) of this subsection with the goal of increasing the number of such practices that meet the standards for evidence-based and research-based practices.

(2) ((~~By June 30, 2013,~~)) The department of social and health services, the department of children, youth, and families, and the health care authority shall complete a baseline assessment of utilization of evidence-based and research-based practices in the areas of child welfare, juvenile rehabilitation, and children's mental health services. The assessment must include prevention and intervention services provided through medicaid fee-for-service and healthy options managed care contracts. The assessment shall include estimates of:

(a) The number of children receiving each service;

(b) For juvenile rehabilitation and child welfare services, the total amount of state and federal funds expended on the service;

(c) For children's mental health services, the number and percentage of encounters using these services that are provided to children served by behavioral health organizations and children receiving mental health services through medicaid fee-for-service or healthy options;

(d) The relative availability of the service in the various regions of the state; and

(e) To the extent possible, the unmet need for each service.

((~~(3)(a) By December 30, 2013, the department and the health care authority shall report to the governor and to the appropriate fiscal and policy committees of the legislature on recommended strategies, timelines, and costs for increasing the use of evidence-based and research-based practices. The report must distinguish between a reallocation of existing funding to support the recommended strategies and new funding needed to increase the use of the practices.~~

~~(b) The department shall provide updated recommendations to the governor and the legislature by December 30, 2014, and by December 30, 2015.~~

~~(4)(a) The report required under subsection (3) of this section must include recommendations for the reallocation of resources for evidence-based and research-based practices and substantial increases above the baseline assessment of the use of evidence-based and research-based practices for the 2015-2017 and the 2017-2019 biennia. The recommendations for increases shall be consistent with subsection (2) of this section.~~

~~(b) If the department or health care authority anticipates that it will not meet its recommended levels for an upcoming biennium as set forth in its report, it must report to the legislature by November 1st of the year preceding the biennium. The report shall include:~~

~~(i) The identified impediments to meeting the recommended levels;~~

~~(ii) The current and anticipated performance level; and~~

~~(iii) Strategies that will be undertaken to improve performance.~~

~~(5) Recommendations made pursuant to subsections (3) and (4) of this section must include strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments, experts within ethnically diverse communities, and community organizations that serve diverse communities.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 72.05 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department shall provide secure internet access to individuals serving a term of confinement with the department. The department shall develop rules to determine which individuals are eligible to use this secure internet and for ensuring that the secure internet used by individuals serving a term of confinement with the department is used appropriately.

NEW SECTION. **Sec.**  A new section is added to chapter 72.05 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall develop and implement in coordination with the consolidated technology services agency under chapter 43.105 RCW site testing to provide individuals serving a term of confinement with the department with access to digital learning through secure laptops.

(2) The site testing in this section must focus on providing individuals serving a term of confinement with the department with opportunities for credit retrieval, coursework leading toward high school graduation or the equivalent, and vocational education including certification.

(3) The department shall design the components of the site testing under this section by October 1, 2019, and shall implement the site testing from October 1, 2019, until July 1, 2021.

(4) The department shall provide a report to the legislature in compliance with RCW 43.01.036 by December 1, 2020, that includes a description of the site testing, the number of individuals serving a term of confinement with the department participating in the site testing, outcomes achieved by the site testing, and recommendations regarding expansion of the service.

(5) This section expires December 1, 2021.

NEW SECTION. **Sec.**  A new section is added to chapter 72.05 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall provide mobile construction preapprenticeship training programs and postsecondary education opportunities to individuals serving a term of confinement with the department. The preapprenticeship training programs under this section must provide technical training with hands-on work experience.

(2) The department shall provide an annual report to the legislature in compliance with RCW 43.01.036 on December 1, 2020, regarding the preapprenticeship programs and postsecondary education opportunities provided to individuals serving a term of confinement with the department and any recommendations to support or expand these programs.

(3) This section expires July 1, 2021.

NEW SECTION. **Sec.**  A new section is added to chapter 72.05 RCW to read as follows:

(1) The department shall convene a background check work group to:

(a) Explore barriers imposed by background check requirements in state law including RCW 43.43.830 and in policy that prevent individuals with criminal history from providing mentoring to individuals serving a term of confinement with the department; and

(b) Consider whether an individual's certificate of restoration of opportunity under RCW 9.97.020 could be used to allow individuals with criminal history to provide mentoring to individuals serving a term of confinement with the department.

(2) The department shall convene the first meeting of the background check work group by August 31, 2019, and include:

(a) Representatives from the department;

(b) Individuals with previous or current experience with the juvenile justice system; and

(c) Representatives from a mentorship program that pairs mentors who have experience in the juvenile justice system and have successfully transformed their lives with young people currently involved with the juvenile justice system.

(3) The work group established under this section shall provide a report to the legislature by December 1, 2019, and in compliance with RCW 43.01.036 that outlines recommendations regarding changes to state law or policy that could support mentoring programs for individuals serving a term of confinement with the department.

(4) This section expires July 1, 2020.

NEW SECTION. **Sec.**  A new section is added to chapter 13.40 RCW to read as follows:

(1) The department shall establish and convene an employment pathways work group to outline a workforce framework for individuals served by the juvenile rehabilitation division of the department. The first meeting of the work group established under this section must occur by August 31, 2019, and include:

(a) Representatives from the department;

(b) Individuals with previous or current experience with the juvenile justice system; and

(c) Workforce representatives including workforce development councils and agency partners.

(2) The work group shall provide a report to the legislature by December 1, 2019, that includes recommendations regarding a plan to: (a) Provide compensation to individuals receiving services through the juvenile rehabilitation division of the department; and (b) implement specific work-based learning positions that provide minimum wage compensation.

NEW SECTION. **Sec.**  A new section is added to chapter 13.40 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the University of Washington shall convene an interdisciplinary work group to develop recommendations for updating policies that support the effective use of evidence-based services in juvenile justice, child welfare, children's mental health, and youth substance abuse and prevention services. The work group convened under this section must include representatives from:

(a) The Washington state institute for public policy;

(b) The Washington state center for court research of the administrative office of the courts;

(c) The community juvenile accountability act advisory committee cochairs;

(d) The Washington association of juvenile court administrators;

(e) The alcohol and drug abuse institute at the University of Washington;

(f) The department of children, youth, and families;

(g) The health care authority;

(h) Legislators;

(i) The office of innovation, alignment, and accountability under RCW 43.216.035;

(j) Individuals under age twenty-five with current or previous experience in the juvenile justice system;

(k) Community advocates; and

(l) Content experts internal and external to Washington state.

(2) The University of Washington must submit the findings and recommendations of the work group to the governor and the legislature by November 1, 2020.

(3) This section expires July 1, 2021.

**--- END ---**