

ESB 6180 - H COMM AMD

By Committee on Human Services & Early Learning

ADOPTED 03/05/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 13.40.162 and 2011 c 338 s 3 are each amended to
4 read as follows:

5 (1) A juvenile offender is eligible for the special sex offender
6 disposition alternative when:

7 (a) The offender is found to have committed a sex offense, other
8 than a sex offense that is also a serious violent offense as defined
9 by RCW 9.94A.030, and the offender has no history of a prior sex
10 offense; ((and)) or

11 (b) The offender is found to have committed assault in the fourth
12 degree with sexual motivation, and the offender has no history of a
13 prior sex offense.

14 (2) If the court finds the offender is eligible for this
15 alternative, the court, on its own motion or the motion of the state
16 or the respondent, may order an examination to determine whether the
17 respondent is amenable to treatment.

18 (a) The report of the examination shall include at a minimum the
19 following:

20 (i) The respondent's version of the facts and the official
21 version of the facts;

22 (ii) The respondent's offense history;

23 (iii) An assessment of problems in addition to alleged deviant
24 behaviors;

25 (iv) The respondent's social, educational, and employment
26 situation;

27 (v) Other evaluation measures used.

28 The report shall set forth the sources of the evaluator's
29 information.

30 (b) The examiner shall assess and report regarding the
31 respondent's amenability to treatment and relative risk to the

1 community. A proposed treatment plan shall be provided and shall
2 include, at a minimum:

3 (i) The frequency and type of contact between the offender and
4 therapist;

5 (ii) Specific issues to be addressed in the treatment and
6 description of planned treatment modalities;

7 (iii) Monitoring plans, including any requirements regarding
8 living conditions, lifestyle requirements, and monitoring by family
9 members, legal guardians, or others;

10 (iv) Anticipated length of treatment; and

11 (v) Recommended crime-related prohibitions.

12 (c) The court on its own motion may order, or on a motion by the
13 state shall order, a second examination regarding the offender's
14 amenability to treatment. The evaluator shall be selected by the
15 party making the motion. The defendant shall pay the cost of any
16 second examination ordered unless the court finds the defendant to be
17 indigent in which case the state shall pay the cost.

18 (3) After receipt of reports of the examination, the court shall
19 then consider whether the offender and the community will benefit
20 from use of this special sex offender disposition alternative and
21 consider the victim's opinion whether the offender should receive a
22 treatment disposition under this section. If the court determines
23 that this special sex offender disposition alternative is
24 appropriate, then the court shall impose a determinate disposition
25 within the standard range for the offense, or if the court concludes,
26 and enters reasons for its conclusions, that such disposition would
27 cause a manifest injustice, the court shall impose a disposition
28 under option D, and the court may suspend the execution of the
29 disposition and place the offender on community supervision for at
30 least two years.

31 (4) As a condition of the suspended disposition, the court may
32 impose the conditions of community supervision and other conditions,
33 including up to thirty days of confinement and requirements that the
34 offender do any one or more of the following:

35 (a) Devote time to a specific education, employment, or
36 occupation;

37 (b) Undergo available outpatient sex offender treatment for up to
38 two years, or inpatient sex offender treatment not to exceed the
39 standard range of confinement for that offense. A community mental
40 health center may not be used for such treatment unless it has an

1 appropriate program designed for sex offender treatment. The
2 respondent shall not change sex offender treatment providers or
3 treatment conditions without first notifying the prosecutor, the
4 probation counselor, and the court, and shall not change providers
5 without court approval after a hearing if the prosecutor or probation
6 counselor object to the change;

7 (c) Remain within prescribed geographical boundaries and notify
8 the court or the probation counselor prior to any change in the
9 offender's address, educational program, or employment;

10 (d) Report to the prosecutor and the probation counselor prior to
11 any change in a sex offender treatment provider. This change shall
12 have prior approval by the court;

13 (e) Report as directed to the court and a probation counselor;

14 (f) Pay all court-ordered legal financial obligations, perform
15 community restitution, or any combination thereof;

16 (g) Make restitution to the victim for the cost of any counseling
17 reasonably related to the offense; or

18 (h) Comply with the conditions of any court-ordered probation
19 bond.

20 (5) If the court orders twenty-four hour, continuous monitoring
21 of the offender while on probation, the court shall include the basis
22 for this condition in its findings.

23 (6) (a) The court must order the offender not to attend the public
24 or approved private elementary, middle, or high school attended by
25 the victim or the victim's siblings.

26 (b) The parents or legal guardians of the offender are
27 responsible for transportation or other costs associated with the
28 offender's change of school that would otherwise be paid by the
29 school district.

30 (c) The court shall send notice of the disposition and
31 restriction on attending the same school as the victim or victim's
32 siblings to the public or approved private school the juvenile will
33 attend, if known, or if unknown, to the approved private schools and
34 the public school district board of directors of the district in
35 which the juvenile resides or intends to reside. This notice must be
36 sent at the earliest possible date but not later than ten calendar
37 days after entry of the disposition.

38 (7) ~~((a))~~ For offenders required to register under RCW
39 9A.44.130, at the end of the supervision ordered under this
40 disposition alternative, there is a presumption that the offender is

1 sufficiently rehabilitated to warrant removal from the central
2 registry of sex offenders. The court shall relieve the offender's
3 duty to register unless the court finds that the offender is not
4 sufficiently rehabilitated to warrant removal and may consider the
5 following factors: (a) The nature of the offense committed, including
6 the number of victims and the length of the offense history;

7 (b) Any subsequent criminal history of the juvenile;

8 (c) The juvenile's compliance with supervision requirements;

9 (d) The length of time since the charged incident occurred;

10 (e) Any input from community corrections officers, juvenile
11 parole or probation officers, law enforcement, or treatment
12 providers;

13 (f) The juvenile's participation in sex offender treatment;

14 (g) The juvenile's participation in other treatment and
15 rehabilitative programs;

16 (h) The juvenile's stability in employment and housing;

17 (i) The juvenile's community and personal support system;

18 (j) Any risk assessments or evaluations prepared by a qualified
19 professional related to the juvenile;

20 (k) Any updated polygraph examination completed by the juvenile;

21 (l) Any input of the victim; and

22 (m) Any other factors the court may consider relevant.

23 (8)(a) The sex offender treatment provider shall submit quarterly
24 reports on the respondent's progress in treatment to the court and
25 the parties. The reports shall reference the treatment plan and
26 include at a minimum the following: Dates of attendance, respondent's
27 compliance with requirements, treatment activities, the respondent's
28 relative progress in treatment, and any other material specified by
29 the court at the time of the disposition.

30 (b) At the time of the disposition, the court may set treatment
31 review hearings as the court considers appropriate.

32 (c) Except as provided in this subsection, examinations and
33 treatment ordered pursuant to this subsection shall ((only)) be
34 conducted by qualified professionals as described under (d) of this
35 subsection, certified sex offender treatment providers, or certified
36 affiliate sex offender treatment providers under chapter 18.155 RCW.

37 (d) A sex offender therapist who examines or treats a juvenile
38 sex offender pursuant to this subsection does not have to be
39 certified by the department of health pursuant to chapter 18.155 RCW
40 if the therapist is a professional licensed under chapter 18.225 or

1 18.83 RCW and the treatment employed is evidence-based for sex
2 offender treatment, or if the court finds that: (i) The offender has
3 already moved to another state or plans to move to another state for
4 reasons other than circumventing the certification requirements; (ii)
5 no certified sex offender treatment providers or certified affiliate
6 sex offender treatment providers are available for treatment within a
7 reasonable geographical distance of the offender's home; and (iii)
8 the evaluation and treatment plan comply with this subsection and the
9 rules adopted by the department of health.

10 ~~((8))~~ (9)(a) If the offender violates any condition of the
11 disposition or the court finds that the respondent is failing to make
12 satisfactory progress in treatment, the court may revoke the
13 suspension and order execution of the disposition or the court may
14 impose a penalty of up to thirty days confinement for violating
15 conditions of the disposition.

16 (b) The court may order both execution of the disposition and up
17 to thirty days confinement for the violation of the conditions of the
18 disposition.

19 (c) The court shall give credit for any confinement time
20 previously served if that confinement was for the offense for which
21 the suspension is being revoked.

22 ~~((9))~~ (10) For purposes of this section, "victim" means any
23 person who has sustained emotional, psychological, physical, or
24 financial injury to person or property as a direct result of the
25 crime charged. "Victim" may also include a known parent or guardian
26 of a victim who is a minor child unless the parent or guardian is the
27 perpetrator of the offense.

28 ~~((10))~~ (11) A disposition entered under this section is not
29 appealable under RCW 13.40.230.

30 **Sec. 2.** RCW 9A.44.140 and 2015 c 261 s 6 are each amended to
31 read as follows:

32 The duty to register under RCW 9A.44.130 shall continue for the
33 duration provided in this section.

34 (1) For a person convicted in this state of a class A felony, or
35 a person convicted of any sex offense or kidnapping offense who has
36 one or more prior convictions for a sex offense or kidnapping
37 offense, the duty to register shall continue indefinitely.

38 (2) For a person convicted in this state of a class B felony who
39 does not have one or more prior convictions for a sex offense or

1 kidnapping offense, the duty to register shall end fifteen years
2 after the last date of release from confinement, if any, (including
3 full-time residential treatment) pursuant to the conviction, or entry
4 of the judgment and sentence, if the person has spent fifteen
5 consecutive years in the community without being convicted of a
6 disqualifying offense during that time period.

7 (3) For a person convicted in this state of a class C felony, a
8 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
9 or conspiracy to commit a class C felony, and the person does not
10 have one or more prior convictions for a sex offense or kidnapping
11 offense, the duty to register shall end ten years after the last date
12 of release from confinement, if any, (including full-time residential
13 treatment) pursuant to the conviction, or entry of the judgment and
14 sentence, if the person has spent ten consecutive years in the
15 community without being convicted of a disqualifying offense during
16 that time period.

17 (4) Except as provided in RCW 9A.44.142, for a person required to
18 register for a federal, tribal, or out-of-state conviction, the duty
19 to register shall continue indefinitely.

20 (5) For a person who is or has been determined to be a sexually
21 violent predator pursuant to chapter 71.09 RCW, the duty to register
22 shall continue for the person's lifetime.

23 (6) Nothing in this section prevents a person from being relieved
24 of the duty to register under RCW 9A.44.142 (~~and~~), 9A.44.143, and
25 13.40.162.

26 (7) Nothing in RCW 9.94A.637 relating to discharge of an offender
27 shall be construed as operating to relieve the offender of his or her
28 duty to register pursuant to RCW 9A.44.130.

29 (8) For purposes of determining whether a person has been
30 convicted of more than one sex offense, failure to register as a sex
31 offender or kidnapping offender is not a sex or kidnapping offense.

32 (9) The provisions of this section and RCW 9A.44.141 through
33 9A.44.143 apply equally to a person who has been found not guilty by
34 reason of insanity under chapter 10.77 RCW of a sex offense or
35 kidnapping offense."

36 Correct the title.

EFFECT: Makes the following changes to the underlying bill:

(1) Creates a presumption that a juvenile offender is sufficiently rehabilitated to warrant removal from the sex offender registry.

(2) Specifies certain factors the court may consider to overcome that presumption.

(3) Specifies the requirements for a "qualified professional" who may examine and provide treatment for juveniles under a juvenile Special Sex Offender Disposition Alternative (SSODA).

(4) Specifies that a sex offender therapist who examines or treats a juvenile under a SSODA does not have to be certified by the Department of Health if the therapist is licensed by the Department of Health as a psychologist, social worker, or therapist, and the treatment employed is evidence-based for sex offender treatment.

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