
SUBSTITUTE HOUSE BILL 2796

State of Washington

66th Legislature

2020 Regular Session

By House Human Services & Early Learning (originally sponsored by Representatives Frame, Peterson, Pollet, and Santos)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to juvenile sex offense registration waivers
2 under the special sexual offender disposition alternative; and
3 amending RCW 13.40.162 and 9A.44.140.

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

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

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

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

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

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

20 (a) The report of the examination shall include at a minimum the
21 following:

- 1 (i) The respondent's version of the facts and the official
2 version of the facts;
- 3 (ii) The respondent's offense history;
- 4 (iii) An assessment of problems in addition to alleged deviant
5 behaviors;
- 6 (iv) The respondent's social, educational, and employment
7 situation;
- 8 (v) Other evaluation measures used.

9 The report shall set forth the sources of the evaluator's
10 information.

11 (b) The examiner shall assess and report regarding the
12 respondent's amenability to treatment and relative risk to the
13 community. A proposed treatment plan shall be provided and shall
14 include, at a minimum:

- 15 (i) The frequency and type of contact between the offender and
16 therapist;
- 17 (ii) Specific issues to be addressed in the treatment and
18 description of planned treatment modalities;
- 19 (iii) Monitoring plans, including any requirements regarding
20 living conditions, lifestyle requirements, and monitoring by family
21 members, legal guardians, or others;
- 22 (iv) Anticipated length of treatment; and
- 23 (v) Recommended crime-related prohibitions.

24 (c) The court on its own motion may order, or on a motion by the
25 state shall order, a second examination regarding the offender's
26 amenability to treatment. The evaluator shall be selected by the
27 party making the motion. The defendant shall pay the cost of any
28 second examination ordered unless the court finds the defendant to be
29 indigent in which case the state shall pay the cost.

30 (3) After receipt of reports of the examination, the court shall
31 then consider whether the offender and the community will benefit
32 from use of this special sex offender disposition alternative and
33 consider the victim's opinion whether the offender should receive a
34 treatment disposition under this section. If the court determines
35 that this special sex offender disposition alternative is
36 appropriate, then the court shall impose a determinate disposition
37 within the standard range for the offense, or if the court concludes,
38 and enters reasons for its conclusions, that such disposition would
39 cause a manifest injustice, the court shall impose a disposition
40 under option D, and the court may suspend the execution of the

1 disposition and place the offender on community supervision for at
2 least two years.

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

7 (a) Devote time to a specific education, employment, or
8 occupation;

9 (b) Undergo available outpatient sex offender treatment for up to
10 two years, or inpatient sex offender treatment not to exceed the
11 standard range of confinement for that offense. A community mental
12 health center may not be used for such treatment unless it has an
13 appropriate program designed for sex offender treatment. The
14 respondent shall not change sex offender treatment providers or
15 treatment conditions without first notifying the prosecutor, the
16 probation counselor, and the court, and shall not change providers
17 without court approval after a hearing if the prosecutor or probation
18 counselor object to the change;

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

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

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

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

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

30 (h) Comply with the conditions of any court-ordered probation
31 bond.

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

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

38 (b) The parents or legal guardians of the offender are
39 responsible for transportation or other costs associated with the

1 offender's change of school that would otherwise be paid by the
2 school district.

3 (c) The court shall send notice of the disposition and
4 restriction on attending the same school as the victim or victim's
5 siblings to the public or approved private school the juvenile will
6 attend, if known, or if unknown, to the approved private schools and
7 the public school district board of directors of the district in
8 which the juvenile resides or intends to reside. This notice must be
9 sent at the earliest possible date but not later than ten calendar
10 days after entry of the disposition.

11 (7) (a) If required by RCW 9A.44.140, upon adjudication of the
12 offense for which this disposition alternative is granted, the court
13 must order the offender to register as a sex offender. Unless the
14 duty to register is removed under (b) of this subsection, the
15 offender must continue to register as a sex offender according to the
16 limits provided under chapter 9A.44 RCW.

17 (b) At the end of the supervision ordered under this disposition
18 alternative, there is a presumption that the offender is sufficiently
19 rehabilitated to warrant removal from the central registry of sex
20 offenders. The court shall relieve the offender's duty to register
21 unless the court finds that the offender is not sufficiently
22 rehabilitated to warrant removal and may consider the following
23 factors:

24 (i) The nature of the offense committed, including the number of
25 victims and the length of the offense history;

26 (ii) Any subsequent criminal history of the juvenile;

27 (iii) The juvenile's compliance with supervision requirements;

28 (iv) The length of time since the charged incident occurred;

29 (v) Any input from community corrections officers, juvenile
30 parole or probation officers, law enforcement, or treatment
31 providers;

32 (vi) The juvenile's participation in sex offender treatment;

33 (vii) The juvenile's participation in other treatment and
34 rehabilitative programs;

35 (viii) The juvenile's stability in employment and housing;

36 (ix) The juvenile's community and personal support system;

37 (x) Any risk assessments or evaluations prepared by a qualified
38 professional related to the juvenile;

39 (xi) Any updated polygraph examination completed by the juvenile;

40 (xii) Any input of the victim;

1 (xiii) Any other factors the court may consider relevant.

2 (8)(a) The sex offender treatment provider shall submit quarterly
3 reports on the respondent's progress in treatment to the court and
4 the parties. The reports shall reference the treatment plan and
5 include at a minimum the following: Dates of attendance, respondent's
6 compliance with requirements, treatment activities, the respondent's
7 relative progress in treatment, and any other material specified by
8 the court at the time of the disposition.

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

11 (c) Except as provided in this subsection, examinations and
12 treatment ordered pursuant to this subsection shall ~~((only))~~ be
13 conducted by qualified professionals, certified sex offender
14 treatment providers, or certified affiliate sex offender treatment
15 providers under chapter 18.155 RCW.

16 (d) A sex offender therapist who examines or treats a juvenile
17 sex offender pursuant to this subsection does not have to be
18 certified by the department of health pursuant to chapter 18.155 RCW
19 if the therapist is a professional licensed under chapter 18.225 or
20 18.83 RCW and the treatment employed is evidence-based, or if the
21 court finds that: (i) The offender has already moved to another state
22 or plans to move to another state for reasons other than
23 circumventing the certification requirements; (ii) no certified sex
24 offender treatment providers or certified affiliate sex offender
25 treatment providers are available for treatment within a reasonable
26 geographical distance of the offender's home; and (iii) the
27 evaluation and treatment plan comply with this subsection and the
28 rules adopted by the department of health.

29 ~~((+8))~~ (9)(a) If the offender violates any condition of the
30 disposition or the court finds that the respondent is failing to make
31 satisfactory progress in treatment, the court may revoke the
32 suspension and order execution of the disposition or the court may
33 impose a penalty of up to thirty days confinement for violating
34 conditions of the disposition.

35 (b) The court may order both execution of the disposition and up
36 to thirty days confinement for the violation of the conditions of the
37 disposition.

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

1 (~~(9)~~) (10) For purposes of this section, "victim" means any
2 person who has sustained emotional, psychological, physical, or
3 financial injury to person or property as a direct result of the
4 crime charged. "Victim" may also include a known parent or guardian
5 of a victim who is a minor child unless the parent or guardian is the
6 perpetrator of the offense.

7 (~~(10)~~) (11) A disposition entered under this section is not
8 appealable under RCW 13.40.230.

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

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

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

17 (2) For a person convicted in this state of a class B felony who
18 does not have one or more prior convictions for a sex offense or
19 kidnapping offense, the duty to register shall end fifteen years
20 after the last date of release from confinement, if any, (including
21 full-time residential treatment) pursuant to the conviction, or entry
22 of the judgment and sentence, if the person has spent fifteen
23 consecutive years in the community without being convicted of a
24 disqualifying offense during that time period.

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

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

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

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

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

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

13 (9) The provisions of this section and RCW 9A.44.141 through
14 9A.44.143 apply equally to a person who has been found not guilty by
15 reason of insanity under chapter 10.77 RCW of a sex offense or
16 kidnapping offense.

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