
**Human Services, Youth, & Early
Learning Committee**

HB 1432

Brief Description: Concerning juvenile justice.

Sponsors: Representatives Farivar, Cortes, Senn, Simmons, Goodman, Reed, Callan, Ortiz-Self, Fosse, Berry, Alvarado, Thai, Stonier, Lekanoff, Peterson, Gregerson, Ramel, Macri, Pollet and Ormsby.

Brief Summary of Bill

- Prohibits courts from imposing any fine, administrative fee, cost, surcharge, or restitution against a juvenile or juvenile's parent or guardian, in a juvenile offender proceeding.
- Creates a Community Compensation Program for the purpose of providing compensation to parties harmed by juveniles as a replacement for restitution in a manner consistent with the Community Compensation Task Force recommendations.
- Allows a juvenile record to be sealed when restitution is owed and records previously deemed ineligible for sealing on the basis of owed restitution are automatically sealed.

Hearing Date: 2/1/23

Staff: Luke Wickham

Background:

Juvenile Justice in Washington State.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

In Washington, juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under age 18 who are alleged to have committed a crime. However, there are several exceptions to that jurisdiction where state law requires youth to be tried in adult courts.

There are three situations where adult criminal courts may have jurisdiction over persons under age 18:

- The juvenile court declines jurisdiction to adult court following a discretionary decline hearing which a court can initiate on its own motion or any party may file a motion requesting the court transfer the juvenile to adult court only if:
 - the respondent is at least age 15 and is charged with a serious violent offense;
 - the respondent is age 14 or younger and is charged with Murder in the first or second degree; or
 - the respondent is any age and is charged with custodial assault and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age 21;
- The juvenile court is required to hold a decline hearing in circumstances when the information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.
- Adult criminal courts have exclusive jurisdiction over juveniles age 16 or 17 on the date of the offense when the offense is:
 - a serious violent offense;
 - a violent offense and the juvenile has a criminal history consisting of a prior serious violent offense, two or more prior violent offenses, or three or more of any combination of class A felonies, class B felonies, Vehicular Assault, or Manslaughter in the second degree; or
 - Rape of a Child in the first degree.

Juvenile court dispositions are subject to statutory sentencing guidelines. Juvenile offenses are categorized using letters E through A++ to indicate the seriousness level of the offense. A statutory grid establishes the standard sentencing range for a particular offense based on the offense category and an individual's prior adjudications. Each prior felony adjudication counts as one point, and each prior violation, misdemeanor, or gross misdemeanor counts as one-fourth point. Fractional points are rounded down.

The sentencing category called local sanctions is the least serious category for juvenile sentencing purposes. Local sanctions include a range of up to 30 days in confinement, up to 12 months of community service, up to 150 hours of community service, and up to a \$500 fine.

When a juvenile court sentences a juvenile offender to local sanctions, the court must impose a determinate sentence within the standard range. Confinement imposed by a juvenile court up to 30 days is served in a county juvenile detention facility. Any confinement imposed that is greater than 30 days is served through commitment at a Department of Children, Youth, and Families juvenile rehabilitation facility.

Legal Financial Obligations.

When a juvenile is adjudicated of a criminal offense, the court may impose legal financial obligations (LFOs) as part of the disposition. Legal financial obligations can include restitution, court costs, fees, and assessments. Some types of LFOs are mandatory and must be imposed by the court in some circumstances, including the crime victim penalty assessment and the deoxyribonucleic acid (DNA) database fee.

Restitution.

A juvenile court must require a juvenile offender who is adjudicated of a criminal offense to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the juvenile. Restitution may include the costs of counseling reasonably related to the offense. The court may determine the amount, terms, and conditions of the restitution including a payment plan up to 10 years if the court determines that the juvenile does not have the means to make full restitution over a shorter period.

If the court determines that a juvenile has insufficient funds to pay and upon agreement of the victim, the court may order a number of hours of community restitution instead of the monetary penalty.

At any time, the court may determine that the person is not required to pay, or may relieve the person of the requirement to pay, full or partial restitution to an insurance provider. Restitution must be paid to crime victims before payment for other penalties or monetary assessments.

A person owing restitution for a juvenile offense may petition the court for modification of the restitution order for good cause shown, including inability to pay.

Crime Victim Penalty Assessment.

A crime victim penalty assessment must be imposed on any juvenile offender who is found to have committed a most serious offense or a sex offense in the amount of \$100. When a juvenile is adjudicated of an offense that has a victim and the offense does not trigger the victim penalty assessment, the court must order up to seven hours of community restitution, unless the court finds that this is not practicable for the person.

One hundred percent of the crime victim penalty assessment amounts received are transferred to the county treasurer and must be deposited into a fund for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes.

Deoxyribonucleic Acid Database Fee.

A biological sample must be collected for purposes of DNA identification analysis from every person (adult or juvenile) convicted of a felony or certain other offenses, and the court must impose a \$100 fee as part of the sentence or disposition. The court may not impose the DNA database fee if the state has previously collected the juvenile offender's DNA as a result of a prior conviction.

Eighty percent of the fee is deposited into the DNA Database Account, and 20 percent of the fee is transmitted to the local agency that collected the biological sample. Money in the DNA Database Account may be expended by the Chief of the Washington State Patrol (chief) or the chief's designee only for the creation, operation, and maintenance of the DNA database.

Summary of Bill:

The court is prohibited from imposing any fine, administrative fee, cost, surcharge, or restitution against a juvenile or juvenile's parent or guardian, or other person having custody of the juvenile, in connection with a juvenile offender proceeding.

The Administrative Office of the Courts (AOC) and courts of limited jurisdiction must consider any previously ordered fine against a juvenile or family members be considered null and void.

On or before July 1, 2023, the AOC must report to the Legislature the numbers of orders and balances vacated in each judicial district. The AOC must provide an annual report to the Legislature the total amount assessed to and collected from individuals charged in superior court and other courts of limited jurisdiction.

A Community Compensation Task Force (Task Force) is created within the Department of Labor and Industries (DLI) to address the elimination of juvenile restitution and the compensation of parties harmed by juveniles. The Task Force must hold its first meeting on or before July 1, 2023, and submit a final implementation plan on or before July 1, 2024 that includes:

- details on the infrastructure of the Community Compensation Program (Program) to compensate parties harmed by juveniles;
- a process for harmed parties, including those who do not meet the definition of victim to participate in the Program;
- a process for determining eligibility of parties who may try to participate in the Program with the intent that the Program be accessible to the broadest number of harmed parties; and
- standards and practices for calculating the amount of compensation applicants may receive.

The Task Force representatives must include:

- three people who were ordered to pay juvenile legal financial obligations;
- three people who were ordered to receive restitution from a respondent;
- one representative from a statewide coalition focused on legal financial obligations and youth justice;
- one representative from a civil society organization focused on legal financial obligation reform;
- one member of the Washington State Partnership Council on Juvenile Justice;
- one public defender;
- one juvenile court judge;
- one prosecutor;

- one county clerk or juvenile court administrator;
- one member of the Washington State Supreme Court Minority and Justice Commission;
- and
- one individual with expertise in restorative justice or community compensation programs.

The Program is administered by the DLI and authorized to receive private contributions and funds from other sources. The Program will provide compensation to parties harmed by juveniles in a manner consistent with the Task Force recommendations.

The term "community restitution" is renamed "community service" and modified to include attendance at school, work, therapy, treatment, or other prosocial activities determined by the judge in consultation with the juvenile.

The maximum amount of community service that may be ordered under local sanctions is reduced from 150 to eight hours.

Restitution is replaced by community compensation, which means 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 counseling reasonably related to the case.

The term "victim" is replaced with the term "harmed party" for purposes of juvenile offender proceedings.

The maximum amount of community service that may be included in a diversion agreement is reduced from 150 to eight hours.

A juvenile offender's failure to perform community service that was ordered as part of a juvenile disposition or parole obligation may never be the sole reason to impose confinement.

The juvenile or parent may not be required to pay the cost of an evaluation or treatment of a juvenile offender for purposes of:

- a diversion agreement;
- juvenile disposition;
- substance use disorder or mental health disposition alternative (unless third party insurance coverage is available); and
- juveniles committed to the custody of the Department of Children, Youth, and Families (DCYF)

When a juvenile disposition is imposed for two or more offenses, the maximum community service that can be ordered is reduced to eight hours (from 200).

The maximum amount of work, educational, community service, or treatment programs that a juvenile placed in a minimum security status may participate in is reduced from 12 to 8 hours,

but the amount may be increased if approved by the Secretary of the DCYF.

The maximum amount of community service that may be included in a diversion for a traffic, transit, or civil infraction is reduced from 30 to eight hours.

The amount of community service that may be imposed following an juvenile adjudication for Taking a Motor Vehicle Without Permission in the first and second degrees, Theft of a Motor Vehicle, and Possession of a Stolen Vehicle is reduced to eight hours (from 15 to 90).

Owed restitution is no longer a barrier to sealing a juvenile record and records previously deemed ineligible for sealing on the basis of owed restitution are automatically sealed.

The destruction of records related to successfully completed diversion agreements and counsel and release agreements when someone turns age 18 is no longer contingent on the payment of restitution.

Appropriation: None.

Fiscal Note: Requested on January 26, 2023.

Effective Date: The bill contains multiple effective dates.