

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1169

68th Legislature
2023 Regular Session

Passed by the House April 19, 2023
Yeas 56 Nays 42

**Speaker of the House of
Representatives**

Passed by the Senate April 12, 2023
Yeas 30 Nays 19

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1169** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1169

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Simmons, Taylor, Berry, Bateman, Goodman, Wylie, Santos, and Ormsby)

READ FIRST TIME 02/23/23.

1 AN ACT Relating to legal financial obligations; amending RCW
2 7.68.035, 43.43.7532, 43.43.7541, 7.68.240, 9.92.060, 9.94A.6333,
3 9.94B.040, 9.95.210, 10.01.180, 10.82.090, 13.40.020, 13.40.162,
4 13.40.165, 13.40.180, 13.40.192, and 13.40.200; reenacting and
5 amending RCW 9.94A.760 and 13.40.020; adding a new section to chapter
6 7.68 RCW; adding a new section to chapter 13.40 RCW; creating new
7 sections; repealing RCW 13.40.056, 13.40.085, 13.40.198, and
8 13.40.640; providing an effective date; providing a contingent
9 effective date; providing a contingent expiration date; and declaring
10 an emergency.

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

12

PART I

13 **Sec. 1.** RCW 7.68.035 and 2018 c 269 s 19 are each amended to
14 read as follows:

15 (1) ~~((a) When)~~ Except as provided in subsection (4) of this
16 section, when any adult person is found guilty in any superior court
17 of having committed a crime, except as provided in subsection (2) of
18 this section, there shall be imposed by the court upon such convicted
19 person a penalty assessment. The assessment shall be in addition to
20 any other penalty or fine imposed by law and shall be five hundred

1 dollars for each case or cause of action that includes one or more
2 convictions of a felony or gross misdemeanor and two hundred fifty
3 dollars for any case or cause of action that includes convictions of
4 only one or more misdemeanors.

5 ~~((b) When any juvenile is adjudicated of an offense that is a
6 most serious offense as defined in RCW 9.94A.030, or a sex offense
7 under chapter 9A.44 RCW, there shall be imposed upon the juvenile
8 offender a penalty assessment. The assessment shall be in addition to
9 any other penalty or fine imposed by law and shall be one hundred
10 dollars for each case or cause of action.~~

11 ~~(c) When any juvenile is adjudicated of an offense which has a
12 victim, and which is not a most serious offense as defined in RCW
13 9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall
14 order up to seven hours of community restitution, unless the court
15 finds that such an order is not practicable for the offender. This
16 community restitution must be imposed consecutively to any other
17 community restitution the court imposes for the offense.))~~

18 (2) The assessment imposed by subsection (1) of this section
19 shall not apply to motor vehicle crimes defined in Title 46 RCW
20 except those defined in the following sections: RCW 46.61.520,
21 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504,
22 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249,
23 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010,
24 46.44.180, 46.10.490(2), and 46.09.470(2).

25 (3) ~~(When))~~ Except as provided in subsection (4) of this
26 section, when any adult person accused of having committed a crime
27 posts bail in superior court pursuant to the provisions of chapter
28 10.19 RCW and such bail is forfeited, there shall be deducted from
29 the proceeds of such forfeited bail a penalty assessment, in addition
30 to any other penalty or fine imposed by law, equal to the assessment
31 which would be applicable under subsection (1) of this section if the
32 person had been convicted of the crime.

33 (4) The court shall not impose the penalty assessment under this
34 section if the court finds that the defendant, at the time of
35 sentencing, is indigent as defined in RCW 10.01.160(3).

36 (5) Upon motion by a defendant, the court shall waive any crime
37 victim penalty assessment imposed prior to the effective date of this
38 section if:

39 (a) The person was a juvenile at the time the penalty assessment
40 was imposed; or

1 (b) The person does not have the ability to pay the penalty
2 assessment. A person does not have the ability to pay if the person
3 is indigent as defined in RCW 10.01.160(3).

4 (6) Such penalty assessments shall be paid by the clerk of the
5 superior court to the county treasurer. Each county shall deposit one
6 hundred percent of the money it receives per case or cause of action
7 under subsection (1) of this section, not less than one and seventy-
8 five one-hundredths percent of the remaining money it retains under
9 RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and
10 all money it receives under subsection (~~((7))~~) (9) of this section
11 into a fund maintained exclusively for the support of comprehensive
12 programs to encourage and facilitate testimony by the victims of
13 crimes and witnesses to crimes. A program shall be considered
14 "comprehensive" only after approval of the department upon
15 application by the county prosecuting attorney. The department shall
16 approve as comprehensive only programs which:

17 (a) Provide comprehensive services to victims and witnesses of
18 all types of crime with particular emphasis on serious crimes against
19 persons and property. It is the intent of the legislature to make
20 funds available only to programs which do not restrict services to
21 victims or witnesses of a particular type or types of crime and that
22 such funds supplement, not supplant, existing local funding levels;

23 (b) Are administered by the county prosecuting attorney either
24 directly through the prosecuting attorney's office or by contract
25 between the county and agencies providing services to victims of
26 crime;

27 (c) Make a reasonable effort to inform the known victim or his or
28 her surviving dependents of the existence of this chapter and the
29 procedure for making application for benefits;

30 (d) Assist victims in the restitution and adjudication process;
31 and

32 (e) Assist victims of violent crimes in the preparation and
33 presentation of their claims to the department of labor and
34 industries under this chapter.

35 Before a program in any county west of the Cascade mountains is
36 submitted to the department for approval, it shall be submitted for
37 review and comment to each city within the county with a population
38 of more than one hundred fifty thousand. The department will consider
39 if the county's proposed comprehensive plan meets the needs of crime

1 victims in cases adjudicated in municipal, district or superior
2 courts and of crime victims located within the city and county.

3 ~~((+5))~~ (7) Upon submission to the department of a letter of
4 intent to adopt a comprehensive program, the prosecuting attorney
5 shall retain the money deposited by the county under subsection
6 ~~((+4))~~ (6) of this section until such time as the county prosecuting
7 attorney has obtained approval of a program from the department.
8 Approval of the comprehensive plan by the department must be obtained
9 within one year of the date of the letter of intent to adopt a
10 comprehensive program. The county prosecuting attorney shall not make
11 any expenditures from the money deposited under subsection ~~((+4))~~
12 (6) of this section until approval of a comprehensive plan by the
13 department. If a county prosecuting attorney has failed to obtain
14 approval of a program from the department under subsection ~~((+4))~~
15 (6) of this section or failed to obtain approval of a comprehensive
16 program within one year after submission of a letter of intent under
17 this section, the county treasurer shall monthly transmit one hundred
18 percent of the money deposited by the county under subsection ~~((+4))~~
19 (6) of this section to the state treasurer for deposit in the state
20 general fund.

21 ~~((+6))~~ (8) County prosecuting attorneys are responsible to make
22 every reasonable effort to insure that the penalty assessments of
23 this chapter are imposed and collected.

24 ~~((+7))~~ (9) Every city and town shall transmit monthly one and
25 seventy-five one-hundredths percent of all money, other than money
26 received for parking infractions, retained under RCW 3.50.100 and
27 35.20.220 to the county treasurer for deposit as provided in
28 subsection ~~((+4))~~ (6) of this section.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.68 RCW
30 to read as follows:

31 (1) The state crime victim and witness assistance account is
32 created in the state treasury. The account shall consist of funds
33 appropriated by the legislature for comprehensive crime victim and
34 witness programs under RCW 7.68.035. The purpose of the account is to
35 mitigate to fiscal impact from the elimination of the crime victim
36 penalty assessment on juveniles and indigent adults in this act.

37 (2) Pursuant to appropriation, each quarter, the state treasurer
38 must distribute moneys deposited in the state crime victim and

1 witness assistance account to counties on the basis of each county's
2 distribution factor under RCW 82.14.310.

3 (3) Counties may expend moneys distributed under this section
4 only for purposes specified in RCW 7.68.035.

5 **Sec. 3.** RCW 43.43.7532 and 2002 c 289 s 5 are each amended to
6 read as follows:

7 The state DNA database account is created in the custody of the
8 state treasurer. ~~((All))~~ The account shall consist of funds
9 appropriated by the legislature for operation and maintenance of the
10 DNA database and all receipts under RCW 43.43.7541 ~~((must be~~
11 ~~deposited into the account))~~. Expenditures from the account may be
12 used only for creation, operation, and maintenance of the DNA
13 database under RCW 43.43.754. Only the chief of the Washington state
14 patrol or the chief's designee may authorize expenditures from the
15 account. The account is subject to allotment procedures under chapter
16 43.88 RCW, but an appropriation is not required for expenditures.

17 **Sec. 4.** RCW 43.43.7541 and 2018 c 269 s 18 are each amended to
18 read as follows:

19 ~~((Every sentence imposed for a crime specified in RCW 43.43.754~~
20 ~~must include a fee of one hundred dollars unless the state has~~
21 ~~previously collected the offender's DNA as a result of a prior~~
22 ~~conviction. The fee is a court-ordered legal financial obligation as~~
23 ~~defined in RCW 9.94A.030 and other applicable law. For a sentence~~
24 ~~imposed under chapter 9.94A RCW, the fee is payable by the offender~~
25 ~~after payment of all other legal financial obligations included in~~
26 ~~the sentence has been completed. For all other sentences, the fee is~~
27 ~~payable by the offender in the same manner as other assessments~~
28 ~~imposed.))~~

29 (1) The clerk of the court shall transmit ((eighty)) 80 percent
30 of ((the fee)) any amounts collected for fees imposed prior to the
31 effective date of this section for the collection of an offender's
32 DNA to the state treasurer for deposit in the state DNA database
33 account created under RCW 43.43.7532, and shall transmit ((twenty))
34 20 percent of the fee collected to the agency responsible for
35 collection of a biological sample from the offender as required under
36 RCW 43.43.754. ((This fee shall not be imposed on juvenile offenders
37 if the state has previously collected the juvenile offender's DNA as
38 a result of a prior conviction.))

1 (2) Upon motion by the offender, the court shall waive any fee
2 for the collection of the offender's DNA imposed prior to the
3 effective date of this section.

4 NEW SECTION. **Sec. 5.** (1) The administrative office of the
5 courts must review revenue collection data before and after the
6 effective date of this section and provide a more accurate assessment
7 of the fiscal impact of the elimination of the crime victim penalty
8 assessment on juveniles and indigent adults in this act. The
9 assessment must be provided to the appropriate committees of the
10 legislature by February 1, 2025, to inform future distributions to
11 the account created in section 2 of this act.

12 (2) The administrative office of the courts, in consultation with
13 county clerks, must review the grant program created in RCW 2.56.190
14 to determine if the program continues to serve its intended purpose
15 in light of legislative changes to legal financial obligations. The
16 office's findings and recommendations must be provided to the
17 appropriate committees of the legislature by December 1, 2023.

18 **PART II**
19 **CONFORMING AMENDMENTS**

20 **Sec. 6.** RCW 7.68.240 and 2022 c 260 s 22 are each amended to
21 read as follows:

22 Upon a showing by any convicted person or the state that five
23 years have elapsed from the establishment of such escrow account and
24 further that no actions are pending against such convicted person
25 pursuant to RCW 7.68.200 through 7.68.280, the department shall
26 immediately pay over 50 percent of any moneys in the escrow account
27 to such person or his or her legal representatives and 50 percent of
28 any moneys in the escrow account to the fund under RCW
29 7.68.035(~~(4)~~) (6).

30 **Sec. 7.** RCW 9.92.060 and 2022 c 260 s 6 are each amended to read
31 as follows:

32 (1) Whenever any person is convicted of any crime except murder,
33 burglary in the first degree, arson in the first degree, robbery,
34 rape of a child, or rape, the superior court may, in its discretion,
35 at the time of imposing sentence upon such person, direct that such
36 sentence be stayed and suspended until otherwise ordered by the

1 superior court, and, upon such terms as the superior court may
2 determine, that the sentenced person be placed under the charge of:

3 (a) A community corrections officer employed by the department of
4 corrections, if the person is subject to supervision under RCW
5 9.94A.501 or 9.94A.5011; or

6 (b) A probation officer employed or contracted for by the county,
7 if the county has elected to assume responsibility for the
8 supervision of superior court misdemeanor probationers.

9 (2) As a condition to suspension of sentence, the superior court
10 (~~shall require the payment of the penalty assessment required by RCW~~
11 ~~7.68.035. In addition, the superior court~~) may require the convicted
12 person to make such monetary payments, on such terms as the superior
13 court deems appropriate under the circumstances, as are necessary:

14 (a) To comply with any order of the court for the payment of family
15 support; (b) to make restitution to any person or persons who may
16 have suffered loss or damage by reason of the commission of the crime
17 in question or when the offender pleads guilty to a lesser offense or
18 fewer offenses and agrees with the prosecutor's recommendation that
19 the offender be required to pay restitution to a victim of an offense
20 or offenses which are not prosecuted pursuant to a plea agreement;

21 (c) to pay any fine imposed and not suspended and the court or other
22 costs incurred in the prosecution of the case, including
23 reimbursement of the state for costs of extradition if return to this
24 state by extradition was required; and (d) to contribute to a county
25 or interlocal drug fund.

26 (3) At any time, including at sentencing, the court may determine
27 that the offender is not required to pay, or may relieve the offender
28 of the requirement to pay, full or partial restitution and accrued
29 interest on restitution where the entity to whom restitution is owed
30 is an insurer or a state agency, except for restitution owed to the
31 department of labor and industries under chapter 7.68 RCW, if the
32 court finds that the offender does not have the current or likely
33 future ability to pay. A person does not have the current ability to
34 pay if the person is indigent as defined in RCW 10.01.160(3). For the
35 purposes of this subsection, the terms "insurer" and "state agency"
36 have the same meanings as provided in RCW 9.94A.750(3).

37 (4) As a condition of the suspended sentence, the superior court
38 may order the probationer to report to the secretary of corrections
39 or such officer as the secretary may designate and as a condition of
40 the probation to follow the instructions of the secretary. If the

1 county legislative authority has elected to assume responsibility for
2 the supervision of superior court misdemeanor probationers within
3 its jurisdiction, the superior court misdemeanor probationer shall
4 report to a probation officer employed or contracted for by the
5 county. In cases where a superior court misdemeanor probationer is
6 sentenced in one county, but resides within another county, there
7 must be provisions for the probationer to report to the agency having
8 supervision responsibility for the probationer's county of residence.

9 (5) If restitution to the victim has been ordered under
10 subsection (2)(b) of this section and the superior court has ordered
11 supervision, the officer supervising the probationer shall make a
12 reasonable effort to ascertain whether restitution has been made as
13 ordered. If the superior court has ordered supervision and
14 restitution has not been made, the officer shall inform the
15 prosecutor of that violation of the terms of the suspended sentence
16 not less than three months prior to the termination of the suspended
17 sentence.

18 **Sec. 8.** RCW 9.94A.6333 and 2022 c 260 s 13 are each amended to
19 read as follows:

20 (1) If an offender violates any condition or requirement of a
21 sentence, and the offender is not being supervised by the department,
22 the court may modify its order of judgment and sentence and impose
23 further punishment in accordance with this section.

24 (2) If an offender fails to comply with any of the nonfinancial
25 conditions or requirements of a sentence the following provisions
26 apply:

27 (a) The court, upon the motion of the state, or upon its own
28 motion, shall require the offender to show cause why the offender
29 should not be punished for the noncompliance. The court may issue a
30 summons or a warrant of arrest for the offender's appearance;

31 (b) The state has the burden of showing noncompliance by a
32 preponderance of the evidence;

33 (c) If the court finds that a violation has been proved, it may
34 impose the sanctions specified in RCW 9.94A.633(1). Alternatively,
35 the court may:

36 (i) Convert a term of partial confinement to total confinement;
37 or

38 (ii) Convert community restitution obligation to total or partial
39 confinement;

1 (d) If the court finds that the violation was not willful, the
2 court may modify its previous order regarding community restitution
3 obligations; and

4 (e) If the violation involves a failure to undergo or comply with
5 a mental health status evaluation and/or outpatient mental health
6 treatment, the court shall seek a recommendation from the treatment
7 provider or proposed treatment provider. Enforcement of orders
8 concerning outpatient mental health treatment must reflect the
9 availability of treatment and must pursue the least restrictive means
10 of promoting participation in treatment. If the offender's failure to
11 receive care essential for health and safety presents a risk of
12 serious physical harm or probable harmful consequences, the civil
13 detention and commitment procedures of chapter 71.05 RCW shall be
14 considered in preference to incarceration in a local or state
15 correctional facility.

16 (3) If an offender fails to pay legal financial obligations as a
17 requirement of a sentence the following provisions apply:

18 (a) The court, upon the motion of the state, or upon its own
19 motion, shall require the offender to show cause why the offender
20 should not be punished for the noncompliance. The court may issue a
21 summons or a warrant of arrest for the offender's appearance;

22 (b) The state has the burden of showing noncompliance by a
23 preponderance of the evidence;

24 (c) The court may not sanction the offender for failure to pay
25 legal financial obligations unless the court finds, after a hearing
26 and on the record, that the failure to pay is willful. A failure to
27 pay is willful if the offender has the current ability to pay but
28 refuses to do so. In determining whether the offender has the current
29 ability to pay, the court shall inquire into and consider: (i) The
30 offender's income and assets; (ii) the offender's basic living costs
31 as defined by RCW 10.101.010 and other liabilities including child
32 support and other legal financial obligations; and (iii) the
33 offender's bona fide efforts to acquire additional resources. An
34 offender who is indigent as defined (~~by [in]~~) in RCW 10.01.160(3)
35 is presumed to lack the current ability to pay;

36 (d) If the court determines that the offender is homeless or a
37 person who is mentally ill, as defined in RCW 71.24.025, failure to
38 pay a legal financial obligation is not willful noncompliance and
39 shall not subject the offender to penalties;

1 (e) If the court finds that a failure to pay is willful
2 noncompliance, it may impose the sanctions specified in RCW
3 9.94A.633(1); and

4 (f) If the court finds that the violation was not willful, the
5 court may, and if the court finds that the defendant is indigent as
6 defined in RCW 10.01.160(3), the court shall modify the terms of
7 payment of the legal financial obligations, reduce or waive
8 nonrestitution legal financial obligations, or convert nonrestitution
9 legal financial obligations to community restitution hours, if the
10 jurisdiction operates a community restitution program, at the rate of
11 no less than the state minimum wage established in RCW 49.46.020 for
12 each hour of community restitution. (~~The crime victim penalty
13 assessment under RCW 7.68.035 may not be reduced, waived, or
14 converted to community restitution hours.~~)

15 (4) Any time served in confinement awaiting a hearing on
16 noncompliance shall be credited against any confinement ordered by
17 the court.

18 (5) Nothing in this section prohibits the filing of escape
19 charges if appropriate.

20 **Sec. 9.** RCW 9.94A.760 and 2022 c 260 s 4 and 2022 c 29 s 4 are
21 each reenacted and amended to read as follows:

22 (1) Whenever a person is convicted in superior court, the court
23 may order the payment of a legal financial obligation as part of the
24 sentence. The court may not order an offender to pay costs as
25 described in RCW 10.01.160 if the court finds that the offender at
26 the time of sentencing is indigent as defined in RCW 10.01.160(3). An
27 offender being indigent as defined in RCW 10.01.160(3) is not grounds
28 for failing to impose restitution (~~or the crime victim penalty
29 assessment under RCW 7.68.035~~), subject to RCW 9.94A.750(3) and
30 9.94A.753(3). The court must on either the judgment and sentence or
31 on a subsequent order to pay, designate the total amount of a legal
32 financial obligation and segregate this amount among the separate
33 assessments made for restitution, costs, fines, and other assessments
34 required by law. On the same order, the court is also to set a sum
35 that the offender is required to pay on a monthly basis towards
36 satisfying the legal financial obligation. If the court fails to set
37 the offender monthly payment amount, the department shall set the
38 amount if the department has active supervision of the offender,
39 otherwise the county clerk shall set the amount.

1 (2) Upon receipt of each payment made by or on behalf of an
2 offender, the county clerk shall distribute the payment in the
3 following order of priority until satisfied:

4 (a) First, proportionally to restitution to victims that have not
5 been fully compensated from other sources;

6 (b) Second, proportionally to restitution to insurance or other
7 sources with respect to a loss that has provided compensation to
8 victims;

9 (c) Third, proportionally to crime victims' assessments that have
10 not been waived under RCW 7.68.035; and

11 (d) Fourth, proportionally to costs, fines, and other assessments
12 required by law.

13 (3) If the court determines that the offender, at the time of
14 sentencing, has the means to pay for the cost of incarceration, the
15 court may require the offender to pay for the cost of incarceration.
16 The court shall not order the offender to pay the cost of
17 incarceration if the court finds that the offender at the time of
18 sentencing is indigent as defined in RCW 10.01.160(3). Costs of
19 incarceration ordered by the court shall not exceed a rate of \$50 per
20 day of incarceration, if incarcerated in a prison, or the actual cost
21 of incarceration per day of incarceration, if incarcerated in a
22 county jail. In no case may the court require the offender to pay
23 more than \$100 per day for the cost of incarceration. All funds
24 recovered from offenders for the cost of incarceration in the county
25 jail shall be remitted to the county and the costs of incarceration
26 in a prison shall be remitted to the department.

27 (4) The court may add to the judgment and sentence or subsequent
28 order to pay a statement that a notice of payroll deduction is to be
29 issued immediately. If the court chooses not to order the immediate
30 issuance of a notice of payroll deduction at sentencing, the court
31 shall add to the judgment and sentence or subsequent order to pay a
32 statement that a notice of payroll deduction may be issued or other
33 income-withholding action may be taken, without further notice to the
34 offender if a monthly court-ordered legal financial obligation
35 payment is not paid when due, and an amount equal to or greater than
36 the amount payable for one month is owed.

37 If a judgment and sentence or subsequent order to pay does not
38 include the statement that a notice of payroll deduction may be
39 issued or other income-withholding action may be taken if a monthly
40 legal financial obligation payment is past due, the department or the

1 county clerk may serve a notice on the offender stating such
2 requirements and authorizations. Service shall be by personal service
3 or any form of mail requiring a return receipt.

4 (5) (a) Independent of the department or the county clerk, the
5 party or entity to whom the legal financial obligation is owed shall
6 have the authority to use any other remedies available to the party
7 or entity to collect the legal financial obligation. These remedies
8 include enforcement in the same manner as a judgment in a civil
9 action by the party or entity to whom the legal financial obligation
10 is owed. Restitution collected through civil enforcement must be paid
11 through the registry of the court and must be distributed
12 proportionately according to each victim's loss when there is more
13 than one victim. The judgment and sentence shall identify the party
14 or entity to whom restitution is owed so that the state, party, or
15 entity may enforce the judgment.

16 (b) If restitution is ordered pursuant to RCW 9.94A.750(6) or
17 9.94A.753(6) to a victim of rape of a child or a victim's child born
18 from the rape, the Washington state child support registry shall be
19 identified as the party to whom payments must be made. Restitution
20 obligations arising from the rape of a child in the first, second, or
21 third degree that result in the pregnancy of the victim may be
22 enforced for the time periods provided under RCW 9.94A.750(6) and
23 9.94A.753(6).

24 (c) All other restitution obligations for an offense committed
25 prior to July 1, 2000, may be enforced at any time during the 10-year
26 period following the offender's release from total confinement or
27 within 10 years of entry of the judgment and sentence, whichever
28 period ends later. Prior to the expiration of the initial 10-year
29 period, the superior court may extend the criminal judgment an
30 additional 10 years for payment of restitution obligations. All other
31 restitution obligations for an offense committed on or after July 1,
32 2000, may be enforced at any time the offender remains under the
33 court's jurisdiction. For an offense committed on or after July 1,
34 2000, the court shall retain jurisdiction over the offender, for
35 purposes of the offender's compliance with payment of the restitution
36 obligations, until the obligation is completely satisfied, regardless
37 of the statutory maximum for the crime.

38 (d) All other legal financial obligations other than restitution
39 may be enforced at any time during the 10-year period following the
40 offender's release from total confinement or within 10 years of entry

1 of the judgment and sentence, whichever period ends later. Prior to
2 the expiration of the initial 10-year period, the superior court may
3 extend the criminal judgment an additional 10 years for payment of
4 nonrestitution legal financial obligations only if the court finds
5 that the offender has the current or likely future ability to pay the
6 obligations. A person does not have the current ability to pay if the
7 person is indigent as defined in RCW 10.01.160(3).

8 (e) The department may only supervise the offender's compliance
9 with payment of the legal financial obligations during any period in
10 which the department is authorized to supervise the offender in the
11 community under RCW 9.94A.728, 9.94A.501, or in which the offender is
12 confined in a state correctional institution or a correctional
13 facility pursuant to a transfer agreement with the department, and
14 the department shall supervise the offender's compliance during any
15 such period. The department is not responsible for supervision of the
16 offender during any subsequent period of time the offender remains
17 under the court's jurisdiction. The county clerk is authorized to
18 collect unpaid legal financial obligations at any time the offender
19 remains under the jurisdiction of the court for purposes of his or
20 her legal financial obligations.

21 (6) In order to assist the court in setting a monthly sum that
22 the offender must pay during the period of supervision, the offender
23 is required to report to the department for purposes of preparing a
24 recommendation to the court. When reporting, the offender is
25 required, under oath, to respond truthfully and honestly to all
26 questions concerning present, past, and future earning capabilities
27 and the location and nature of all property or financial assets. The
28 offender is further required to bring all documents requested by the
29 department.

30 (7) After completing the investigation, the department shall make
31 a report to the court on the amount of the monthly payment that the
32 offender should be required to make towards a satisfied legal
33 financial obligation.

34 (8)(a) During the period of supervision, the department may make
35 a recommendation to the court that the offender's monthly payment
36 schedule be modified so as to reflect a change in financial
37 circumstances. If the department sets the monthly payment amount, the
38 department may modify the monthly payment amount without the matter
39 being returned to the court. During the period of supervision, the
40 department may require the offender to report to the department for

1 the purposes of reviewing the appropriateness of the collection
2 schedule for the legal financial obligation. During this reporting,
3 the offender is required under oath to respond truthfully and
4 honestly to all questions concerning earning capabilities and the
5 location and nature of all property or financial assets. The offender
6 shall bring all documents requested by the department in order to
7 prepare the collection schedule.

8 (b) Subsequent to any period of supervision, or if the department
9 is not authorized to supervise the offender in the community, the
10 county clerk may make a recommendation to the court that the
11 offender's monthly payment schedule be modified so as to reflect a
12 change in financial circumstances. If the county clerk sets the
13 monthly payment amount, or if the department set the monthly payment
14 amount and the department has subsequently turned the collection of
15 the legal financial obligation over to the county clerk, the clerk
16 may modify the monthly payment amount without the matter being
17 returned to the court. During the period of repayment, the county
18 clerk may require the offender to report to the clerk for the purpose
19 of reviewing the appropriateness of the collection schedule for the
20 legal financial obligation. During this reporting, the offender is
21 required under oath to respond truthfully and honestly to all
22 questions concerning earning capabilities and the location and nature
23 of all property or financial assets. The offender shall bring all
24 documents requested by the county clerk in order to prepare the
25 collection schedule.

26 (9) After the judgment and sentence or payment order is entered,
27 the department is authorized, for any period of supervision, to
28 collect the legal financial obligation from the offender. Subsequent
29 to any period of supervision or, if the department is not authorized
30 to supervise the offender in the community, the county clerk is
31 authorized to collect unpaid legal financial obligations from the
32 offender. Any amount collected by the department shall be remitted
33 daily to the county clerk for the purpose of disbursements. The
34 department and the county clerks are authorized, but not required, to
35 accept credit cards as payment for a legal financial obligation, and
36 any costs incurred related to accepting credit card payments shall be
37 the responsibility of the offender.

38 (10) The department or any obligee of the legal financial
39 obligation may seek a mandatory wage assignment for the purposes of
40 obtaining satisfaction for the legal financial obligation pursuant to

1 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify
2 the county clerk. The county clerks shall notify the department, or
3 the administrative office of the courts, whichever is providing the
4 monthly billing for the offender.

5 (11) The requirement that the offender pay a monthly sum towards
6 a legal financial obligation constitutes a condition or requirement
7 of a sentence and the offender is subject to the penalties for
8 noncompliance as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740.
9 If the court determines that the offender is homeless or a person who
10 is mentally ill, as defined in RCW 71.24.025, failure to pay a legal
11 financial obligation is not willful noncompliance and shall not
12 subject the offender to penalties.

13 (12)(a) The administrative office of the courts shall mail
14 individualized periodic billings to the address known by the office
15 for each offender with an unsatisfied legal financial obligation.

16 (b) The billing shall direct payments to the county clerk.

17 (c) The county clerk shall provide the administrative office of
18 the courts with notice of payments by such offenders no less
19 frequently than weekly.

20 (d) The county clerks, the administrative office of the courts,
21 and the department shall maintain agreements to implement this
22 subsection.

23 (13) The department shall arrange for the collection of unpaid
24 legal financial obligations during any period of supervision in the
25 community through the county clerk. The department shall either
26 collect unpaid legal financial obligations or arrange for collections
27 through another entity if the clerk does not assume responsibility or
28 is unable to continue to assume responsibility for collection
29 pursuant to subsection (5) of this section. The costs for collection
30 services shall be paid by the offender.

31 (14) The county clerk may access the records of the employment
32 security department for the purposes of verifying employment or
33 income, seeking any assignment of wages, or performing other duties
34 necessary to the collection of an offender's legal financial
35 obligations.

36 (15) Nothing in this chapter makes the department, the state, the
37 counties, or any state or county employees, agents, or other persons
38 acting on their behalf liable under any circumstances for the payment
39 of these legal financial obligations or for the acts of any offender
40 who is no longer, or was not, subject to supervision by the

1 department for a term of community custody, and who remains under the
2 jurisdiction of the court for payment of legal financial obligations.

3 **Sec. 10.** RCW 9.94B.040 and 2022 c 260 s 14 are each amended to
4 read as follows:

5 (1) If an offender violates any condition or requirement of a
6 sentence, the court may modify its order of judgment and sentence and
7 impose further punishment in accordance with this section.

8 (2) In cases where conditions from a second or later sentence of
9 community supervision begin prior to the term of the second or later
10 sentence, the court shall treat a violation of such conditions as a
11 violation of the sentence of community supervision currently being
12 served.

13 (3) If an offender fails to comply with any of the nonfinancial
14 requirements or conditions of a sentence the following provisions
15 apply:

16 (a) (i) Following the violation, if the offender and the
17 department make a stipulated agreement, the department may impose
18 sanctions such as work release, home detention with electronic
19 monitoring, work crew, community restitution, inpatient treatment,
20 daily reporting, curfew, educational or counseling sessions,
21 supervision enhanced through electronic monitoring, jail time, or
22 other sanctions available in the community.

23 (ii) Within 72 hours of signing the stipulated agreement, the
24 department shall submit a report to the court and the prosecuting
25 attorney outlining the violation or violations, and sanctions
26 imposed. Within 15 days of receipt of the report, if the court is not
27 satisfied with the sanctions, the court may schedule a hearing and
28 may modify the department's sanctions. If this occurs, the offender
29 may withdraw from the stipulated agreement.

30 (iii) If the offender fails to comply with the sanction
31 administratively imposed by the department, the court may take action
32 regarding the original noncompliance. Offender failure to comply with
33 the sanction administratively imposed by the department may be
34 considered an additional violation;

35 (b) In the absence of a stipulated agreement, or where the court
36 is not satisfied with the department's sanctions as provided in (a)
37 of this subsection, the court, upon the motion of the state, or upon
38 its own motion, shall require the offender to show cause why the

1 offender should not be punished for the noncompliance. The court may
2 issue a summons or a warrant of arrest for the offender's appearance;

3 (c) The state has the burden of showing noncompliance by a
4 preponderance of the evidence. If the court finds that the violation
5 has occurred, it may order the offender to be confined for a period
6 not to exceed 60 days for each violation, and may (i) convert a term
7 of partial confinement to total confinement, (ii) convert community
8 restitution obligation to total or partial confinement, or (iii)
9 order one or more of the penalties authorized in (a)(i) of this
10 subsection. Any time served in confinement awaiting a hearing on
11 noncompliance shall be credited against any confinement order by the
12 court;

13 (d) If the court finds that the violation was not willful, the
14 court may modify its previous order regarding community restitution
15 obligations; and

16 (e) If the violation involves a failure to undergo or comply with
17 mental status evaluation and/or outpatient mental health treatment,
18 the community corrections officer shall consult with the treatment
19 provider or proposed treatment provider. Enforcement of orders
20 concerning outpatient mental health treatment must reflect the
21 availability of treatment and must pursue the least restrictive means
22 of promoting participation in treatment. If the offender's failure to
23 receive care essential for health and safety presents a risk of
24 serious physical harm or probable harmful consequences, the civil
25 detention and commitment procedures of chapter 71.05 RCW shall be
26 considered in preference to incarceration in a local or state
27 correctional facility.

28 (4) If the violation involves failure to pay legal financial
29 obligations, the following provisions apply:

30 (a) The department and the offender may enter into a stipulated
31 agreement that the failure to pay was willful noncompliance,
32 according to the provisions and requirements of subsection (3)(a) of
33 this section;

34 (b) In the absence of a stipulated agreement, or where the court
35 is not satisfied with the department's sanctions as provided in a
36 stipulated agreement under (a) of this subsection, the court, upon
37 the motion of the state, or upon its own motion, shall require the
38 offender to show cause why the offender should not be punished for
39 the noncompliance. The court may issue a summons or a warrant of
40 arrest for the offender's appearance;

1 (c) The state has the burden of showing noncompliance by a
2 preponderance of the evidence. The court may not sanction the
3 offender for failure to pay legal financial obligations unless the
4 court finds, after a hearing and on the record, that the failure to
5 pay is willful. A failure to pay is willful if the offender has the
6 current ability to pay but refuses to do so. In determining whether
7 the offender has the current ability to pay, the court shall inquire
8 into and consider: (i) The offender's income and assets; (ii) the
9 offender's basic living costs as defined by RCW 10.101.010 and other
10 liabilities including child support and other legal financial
11 obligations; and (iii) the offender's bona fide efforts to acquire
12 additional resources. An offender who is indigent as defined (~~by~~
13 ~~[in]~~) in RCW 10.01.160(3) is presumed to lack the current ability to
14 pay;

15 (d) If the court determines that the offender is homeless or a
16 person who is mentally ill, as defined in RCW 71.24.025, failure to
17 pay a legal financial obligation is not willful noncompliance and
18 shall not subject the offender to penalties;

19 (e) If the court finds that the failure to pay is willful
20 noncompliance, the court may order the offender to be confined for a
21 period not to exceed 60 days for each violation or order one or more
22 of the penalties authorized in subsection (3)(a)(i) of this section;
23 and

24 (f) If the court finds that the violation was not willful, the
25 court may, and if the court finds that the defendant is indigent as
26 defined in RCW 10.01.160(3), the court shall modify the terms of
27 payment of the legal financial obligations, reduce or waive
28 nonrestitution legal financial obligations, or convert nonrestitution
29 legal financial obligations to community restitution hours, if the
30 jurisdiction operates a community restitution program, at the rate of
31 no less than the state minimum wage established in RCW 49.46.020 for
32 each hour of community restitution. (~~The crime victim penalty~~
33 ~~assessment under RCW 7.68.035 may not be reduced, waived, or~~
34 ~~converted to community restitution hours.))~~

35 (5) The community corrections officer may obtain information from
36 the offender's mental health treatment provider on the offender's
37 status with respect to evaluation, application for services,
38 registration for services, and compliance with the supervision plan,
39 without the offender's consent, as described under RCW 71.05.630.

1 (6) An offender under community placement or community
2 supervision who is civilly detained under chapter 71.05 RCW, and
3 subsequently discharged or conditionally released to the community,
4 shall be under the supervision of the department of corrections for
5 the duration of his or her period of community placement or community
6 supervision. During any period of inpatient mental health treatment
7 that falls within the period of community placement or community
8 supervision, the inpatient treatment provider and the supervising
9 community corrections officer shall notify each other about the
10 offender's discharge, release, and legal status, and shall share
11 other relevant information.

12 (7) Nothing in this section prohibits the filing of escape
13 charges if appropriate.

14 **Sec. 11.** RCW 9.95.210 and 2022 c 260 s 7 are each amended to
15 read as follows:

16 (1)(a) Except as provided in (b) of this subsection in granting
17 probation, the superior court may suspend the imposition or the
18 execution of the sentence and may direct that the suspension may
19 continue upon such conditions and for such time as it shall
20 designate, not exceeding the maximum term of sentence or two years,
21 whichever is longer.

22 (b) For a defendant sentenced for a domestic violence offense, or
23 under RCW 46.61.5055, the superior court may suspend the imposition
24 or the execution of the sentence and may direct that the suspension
25 continue upon such conditions and for such time as the court shall
26 designate, not to exceed five years. The court shall have continuing
27 jurisdiction and authority to suspend the execution of all or any
28 part of the sentence upon stated terms, including installment payment
29 of fines. A defendant who has been sentenced, and who then fails to
30 appear for any hearing to address the defendant's compliance with the
31 terms of probation when ordered to do so by the court shall have the
32 term of probation tolled until such time as the defendant makes his
33 or her presence known to the court on the record. Any time before
34 entering an order terminating probation, the court may modify or
35 revoke its order suspending the imposition or execution of the
36 sentence if the defendant violates or fails to carry out any of the
37 conditions of the suspended sentence.

38 (2) In the order granting probation and as a condition thereof,
39 the superior court may in its discretion imprison the defendant in

1 the county jail for a period not exceeding one year and may fine the
2 defendant any sum not exceeding the statutory limit for the offense
3 committed, and court costs. As a condition of probation, the superior
4 court (~~((shall require the payment of the penalty assessment required
5 by RCW 7.68.035. The superior court))~~) may ((also)) require the
6 defendant to make such monetary payments, on such terms as it deems
7 appropriate under the circumstances, as are necessary: (a) To comply
8 with any order of the court for the payment of family support; (b) to
9 make restitution to any person or persons who may have suffered loss
10 or damage by reason of the commission of the crime in question or
11 when the offender pleads guilty to a lesser offense or fewer offenses
12 and agrees with the prosecutor's recommendation that the offender be
13 required to pay restitution to a victim of an offense or offenses
14 which are not prosecuted pursuant to a plea agreement; (c) to pay
15 such fine as may be imposed and court costs, including reimbursement
16 of the state for costs of extradition if return to this state by
17 extradition was required; (d) following consideration of the
18 financial condition of the person subject to possible electronic
19 monitoring, to pay for the costs of electronic monitoring if that
20 monitoring was required by the court as a condition of release from
21 custody or as a condition of probation; (e) to contribute to a county
22 or interlocal drug fund; and (f) to make restitution to a public
23 agency for the costs of an emergency response under RCW 38.52.430,
24 and may require bonds for the faithful observance of any and all
25 conditions imposed in the probation.

26 (3) The superior court shall order restitution in all cases where
27 the victim is entitled to benefits under the crime victims'
28 compensation act, chapter 7.68 RCW. If the superior court does not
29 order restitution and the victim of the crime has been determined to
30 be entitled to benefits under the crime victims' compensation act,
31 the department of labor and industries, as administrator of the crime
32 victims' compensation program, may petition the superior court within
33 one year of imposition of the sentence for entry of a restitution
34 order. Upon receipt of a petition from the department of labor and
35 industries, the superior court shall hold a restitution hearing and
36 shall enter a restitution order.

37 (4) At any time, including at sentencing, the court may determine
38 that the offender is not required to pay, or may relieve the offender
39 of the requirement to pay, full or partial restitution and accrued
40 interest on restitution where the entity to whom restitution is owed

1 is an insurer or a state agency, except for restitution owed to the
2 department of labor and industries under chapter 7.68 RCW, if the
3 court finds that the offender does not have the current or likely
4 future ability to pay. A person does not have the current ability to
5 pay if the person is indigent as defined in RCW 10.01.160(3). For the
6 purposes of this subsection, the terms "insurer" and "state agency"
7 have the same meanings as provided in RCW 9.94A.750(3).

8 (5) In granting probation, the superior court may order the
9 probationer to report to the secretary of corrections or such officer
10 as the secretary may designate and as a condition of the probation to
11 follow the instructions of the secretary for up to twelve months. If
12 the county legislative authority has elected to assume responsibility
13 for the supervision of superior court misdemeanor probationers
14 within its jurisdiction, the superior court misdemeanor probationer
15 shall report to a probation officer employed or contracted for by the
16 county. In cases where a superior court misdemeanor probationer is
17 sentenced in one county, but resides within another county, there
18 must be provisions for the probationer to report to the agency having
19 supervision responsibility for the probationer's county of residence.

20 (6) If the probationer has been ordered to make restitution and
21 the superior court has ordered supervision, the officer supervising
22 the probationer shall make a reasonable effort to ascertain whether
23 restitution has been made. If the superior court has ordered
24 supervision and restitution has not been made as ordered, the officer
25 shall inform the prosecutor of that violation of the terms of
26 probation not less than three months prior to the termination of the
27 probation period. The secretary of corrections will promulgate rules
28 and regulations for the conduct of the person during the term of
29 probation. For defendants found guilty in district court, like
30 functions as the secretary performs in regard to probation may be
31 performed by probation officers employed for that purpose by the
32 county legislative authority of the county wherein the court is
33 located.

34 (7) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
35 sentences imposed under this section.

36 (8) For purposes of this section, "domestic violence" means the
37 same as in RCW 10.99.020.

38 **Sec. 12.** RCW 10.01.180 and 2022 c 260 s 15 are each amended to
39 read as follows:

1 (1) A defendant sentenced to pay any fine, penalty, assessment,
2 fee, or costs who willfully defaults in the payment thereof or of any
3 installment is in contempt of court as provided in chapter 7.21 RCW.
4 The court may issue a warrant of arrest for his or her appearance.

5 (2) When any fine, penalty, assessment, fee, or assessment of
6 costs is imposed on a corporation or unincorporated association, it
7 is the duty of the person authorized to make disbursement from the
8 assets of the corporation or association to pay the obligation from
9 those assets, and his or her failure to do so may be held to be
10 contempt.

11 (3)(a) The court shall not sanction a defendant for contempt
12 based on failure to pay fines, penalties, assessments, fees, or costs
13 unless the court finds, after a hearing and on the record, that the
14 failure to pay is willful. A failure to pay is willful if the
15 defendant has the current ability to pay but refuses to do so.

16 (b) In determining whether the defendant has the current ability
17 to pay, the court shall inquire into and consider: (i) The
18 defendant's income and assets; (ii) the defendant's basic living
19 costs as defined by RCW 10.101.010 and other liabilities including
20 child support and other legal financial obligations; and (iii) the
21 defendant's bona fide efforts to acquire additional resources. A
22 defendant who is indigent as defined (~~by [in]~~) in RCW 10.01.160(3)
23 is presumed to lack the current ability to pay.

24 (c) If the court determines that the defendant is homeless or a
25 person who is mentally ill, as defined in RCW 71.24.025, failure to
26 pay a legal financial obligation is not willful contempt and shall
27 not subject the defendant to penalties.

28 (4) If a term of imprisonment for contempt for nonpayment of any
29 fine, penalty, assessment, fee, or costs is ordered, the term of
30 imprisonment shall be set forth in the commitment order, and shall
31 not exceed one day for each \$25 of the amount ordered, 30 days if the
32 amount ordered of costs was imposed upon conviction of a violation or
33 misdemeanor, or one year in any other case, whichever is the shorter
34 period. A person committed for nonpayment of any fine, penalty,
35 assessment, fee, or costs shall be given credit toward payment for
36 each day of imprisonment at the rate specified in the commitment
37 order.

38 (5) If it appears to the satisfaction of the court that the
39 default in the payment of any fine, penalty, assessment, fee, or
40 costs is not willful contempt, the court may, and if the defendant is

1 indigent as defined in RCW 10.01.160(3), the court shall enter an
2 order: (a) Allowing the defendant additional time for payment; (b)
3 reducing the amount thereof or of each installment; (c) revoking the
4 fine, penalty, assessment, fee, or costs or the unpaid portion
5 thereof in whole or in part; or (d) converting the unpaid fine,
6 penalty, assessment, fee, or costs to community restitution hours, if
7 the jurisdiction operates a community restitution program, at the
8 rate of no less than the state minimum wage established in RCW
9 49.46.020 for each hour of community restitution. (~~The crime victim
10 penalty assessment under RCW 7.68.035 may not be reduced, revoked, or
11 converted to community restitution hours.~~)

12 (6) A default in the payment of any fine, penalty, assessment,
13 fee, or costs or any installment thereof may be collected by any
14 means authorized by law for the enforcement of a judgment. The levy
15 of execution for the collection of any fine, penalty, assessment,
16 fee, or costs shall not discharge a defendant committed to
17 imprisonment for contempt until the amount has actually been
18 collected.

19 **Sec. 13.** RCW 10.82.090 and 2022 c 260 s 12 are each amended to
20 read as follows:

21 (1) Except as provided in subsections (2) and (3) of this section
22 and RCW 3.50.100, 3.62.020, and 35.20.220, restitution imposed in a
23 judgment shall bear interest from the date of the judgment until
24 payment, at the rate applicable to civil judgments. As of June 7,
25 2018, no interest shall accrue on nonrestitution legal financial
26 obligations. All nonrestitution interest retained by the court shall
27 be split 25 percent to the state treasurer for deposit in the state
28 general fund, 25 percent to the state treasurer for deposit in the
29 judicial information system account as provided in RCW 2.68.020, 25
30 percent to the county current expense fund, and 25 percent to the
31 county current expense fund to fund local courts.

32 (2) The court may elect not to impose interest on any restitution
33 the court orders. Before determining not to impose interest on
34 restitution, the court shall inquire into and consider the following
35 factors: (a) Whether the offender is indigent as defined in RCW
36 (~~10.101.010(3)~~) 10.01.160(3) or general rule 34; (b) the offender's
37 available funds, as defined in RCW 10.101.010(2), and other
38 liabilities including child support and other legal financial
39 obligations; (c) whether the offender is homeless; and (d) whether

1 the offender is mentally ill, as defined in RCW 71.24.025. The court
2 shall also consider the victim's input, if any, as it relates to any
3 financial hardship caused to the victim if interest is not imposed.
4 The court may also consider any other information that the court
5 believes, in the interest of justice, relates to not imposing
6 interest on restitution. After consideration of these factors, the
7 court may waive the imposition of restitution interest.

8 (3) The court may, on motion by the offender, reduce or waive the
9 interest on legal financial obligations levied as a result of a
10 criminal conviction as follows:

11 (a) The court shall waive all interest on the portions of the
12 legal financial obligations that are not restitution that accrued
13 prior to June 7, 2018;

14 (b) The court may waive or reduce interest on the restitution
15 portion of the legal financial obligations only if the principal has
16 been paid in full, except as provided in (c) of this subsection. The
17 court may grant the motion, establish a payment schedule, and retain
18 jurisdiction over the offender for purposes of reviewing and revising
19 the reduction or waiver of interest;

20 (c) The court may, following the offender's release from total
21 confinement, waive or reduce interest on restitution that accrued
22 during the offender's period of incarceration if the court finds that
23 the offender does not have the current or likely future ability to
24 pay. A person does not have the current ability to pay if the person
25 is indigent as defined in RCW 10.01.160(3). The prosecuting attorney
26 shall make reasonable efforts to notify the victim entitled to
27 restitution of the date and place of the hearing. The court shall
28 also consider the victim's input, if any, as it relates to any
29 financial hardship caused to the victim if interest is reduced or
30 waived.

31 (4) This section only applies to adult offenders.

32 NEW SECTION. **Sec. 14.** A new section is added to chapter 13.40
33 RCW to read as follows:

34 No fine, administrative fee, cost, or surcharge may be imposed or
35 collected by the court or any agent of the court against any juvenile
36 or a juvenile's parent or guardian, or other person having custody of
37 the juvenile, in connection with any juvenile offender proceeding
38 including, but not limited to, fees for diversion, DNA sampling, or
39 victims' penalty assessments.

1 **Sec. 15.** RCW 13.40.020 and 2021 c 328 s 5 and 2021 c 206 s 3 are
2 each reenacted and amended to read as follows:

3 For the purposes of this chapter:

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

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

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

24 ~~(a) A fine, not to exceed \$500;~~

25 ~~(b) Community))~~ community restitution not to exceed 150 hours of
26 community restitution;

27 (4) "Community restitution" means compulsory service, without
28 compensation, performed for the benefit of the community by the
29 offender as punishment for committing an offense. Community
30 restitution may be performed through public or private organizations
31 or through work crews;

32 (5) "Community supervision" means an order of disposition by the
33 court of an adjudicated youth not committed to the department or an
34 order granting a deferred disposition. A community supervision order
35 for a single offense may be for a period of up to two years for a sex
36 offense as defined by RCW 9.94A.030 and up to one year for other
37 offenses. As a mandatory condition of any term of community
38 supervision, the court shall order the juvenile to refrain from
39 committing new offenses. As a mandatory condition of community
40 supervision, the court shall order the juvenile to comply with the

1 mandatory school attendance provisions of chapter 28A.225 RCW and to
2 inform the school of the existence of this requirement. Community
3 supervision is an individualized program comprised of one or more of
4 the following:

- 5 (a) Community-based sanctions;
- 6 (b) Community-based rehabilitation;
- 7 (c) Monitoring and reporting requirements;
- 8 (d) Posting of a probation bond;

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

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

- 20 (A) The referral is necessary to rehabilitate the child;
- 21 (B) The referral is necessary to protect the public or the child;
- 22 (C) The referral is in the child's best interest;

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

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

27 (ii) In any case where a court orders a child to inpatient
28 treatment under this section, the court must hold a review hearing no
29 later than 60 days after the youth begins inpatient treatment, and
30 every 30 days thereafter, as long as the youth is in inpatient
31 treatment;

32 (6) "Community transition services" means a therapeutic and
33 supportive community-based custody option in which:

34 (a) A person serves a portion of their term of confinement
35 residing in the community, outside of department institutions and
36 community facilities;

37 (b) The department supervises the person in part through the use
38 of technology that is capable of determining or identifying the
39 monitored person's presence or absence at a particular location;

1 (c) The department provides access to developmentally
2 appropriate, trauma-informed, racial equity-based, and culturally
3 relevant programs to promote successful reentry; and

4 (d) The department prioritizes the delivery of available
5 programming from individuals who share characteristics with the
6 individual being served related to: Race, ethnicity, sexual identity,
7 and gender identity;

8 (7) "Confinement" means physical custody by the department of
9 children, youth, and families in a facility operated by or pursuant
10 to a contract with the state, or physical custody in a detention
11 facility operated by or pursuant to a contract with any county. The
12 county may operate or contract with vendors to operate county
13 detention facilities. The department may operate or contract to
14 operate detention facilities for juveniles committed to the
15 department. Pretrial confinement or confinement of less than 31 days
16 imposed as part of a disposition or modification order may be served
17 consecutively or intermittently, in the discretion of the court;

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

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

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

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

34 (10) "Custodial interrogation" means express questioning or other
35 actions or words by a law enforcement officer which are reasonably
36 likely to elicit an incriminating response from an individual and
37 occurs when reasonable individuals in the same circumstances would
38 consider themselves in custody;

39 (11) "Department" means the department of children, youth, and
40 families;

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

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

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

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

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

35 (17) "Juvenile," "youth," and "child" mean any individual who is
36 under the chronological age of 18 years and who has not been
37 previously transferred to adult court pursuant to RCW 13.40.110,
38 unless the individual was convicted of a lesser charge or acquitted
39 of the charge for which he or she was previously transferred pursuant

1 to RCW 13.40.110 or who is not otherwise under adult court
2 jurisdiction;

3 (18) "Juvenile offender" means any juvenile who has been found by
4 the juvenile court to have committed an offense, including a person
5 18 years of age or older over whom jurisdiction has been extended
6 under RCW 13.40.300;

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

10 (20) "Local sanctions" means one or more of the following: (a)
11 0-30 days of confinement; (b) 0-12 months of community supervision;
12 or (c) 0-150 hours of community restitution(~~(; or (d) \$0-\$500 fine)~~);

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (a) Physical restraint; or

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

38 (31) "Risk assessment tool" means the statistically valid tool
39 used by the department to inform release or placement decisions
40 related to security level, release within the sentencing range,

1 community facility eligibility, community transition services
2 eligibility, and parole. The "risk assessment tool" is used by the
3 department to predict the likelihood of successful reentry and future
4 criminal behavior;

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

11 (33) "Secretary" means the secretary of the department;

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

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

18 (36) "Sexual motivation" means that one of the purposes for which
19 the respondent committed the offense was for the purpose of the
20 respondent's sexual gratification;

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

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

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

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

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

1 **Sec. 16.** RCW 13.40.020 and 2021 c 328 s 5 are each amended to
2 read as follows:

3 For the purposes of this chapter:

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

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

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

24 ~~(a) A fine, not to exceed \$500;~~

25 ~~(b) Community~~) community restitution not to exceed 150 hours of
26 community restitution;

27 (4) "Community restitution" means compulsory service, without
28 compensation, performed for the benefit of the community by the
29 offender as punishment for committing an offense. Community
30 restitution may be performed through public or private organizations
31 or through work crews;

32 (5) "Community supervision" means an order of disposition by the
33 court of an adjudicated youth not committed to the department or an
34 order granting a deferred disposition. A community supervision order
35 for a single offense may be for a period of up to two years for a sex
36 offense as defined by RCW 9.94A.030 and up to one year for other
37 offenses. As a mandatory condition of any term of community
38 supervision, the court shall order the juvenile to refrain from
39 committing new offenses. As a mandatory condition of community
40 supervision, the court shall order the juvenile to comply with the

1 mandatory school attendance provisions of chapter 28A.225 RCW and to
2 inform the school of the existence of this requirement. Community
3 supervision is an individualized program comprised of one or more of
4 the following:

- 5 (a) Community-based sanctions;
- 6 (b) Community-based rehabilitation;
- 7 (c) Monitoring and reporting requirements;
- 8 (d) Posting of a probation bond;

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

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

- 20 (A) The referral is necessary to rehabilitate the child;
- 21 (B) The referral is necessary to protect the public or the child;
- 22 (C) The referral is in the child's best interest;

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

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

27 (ii) In any case where a court orders a child to inpatient
28 treatment under this section, the court must hold a review hearing no
29 later than 60 days after the youth begins inpatient treatment, and
30 every 30 days thereafter, as long as the youth is in inpatient
31 treatment;

32 (6) "Confinement" means physical custody by the department of
33 children, youth, and families in a facility operated by or pursuant
34 to a contract with the state, or physical custody in a detention
35 facility operated by or pursuant to a contract with any county. The
36 county may operate or contract with vendors to operate county
37 detention facilities. The department may operate or contract to
38 operate detention facilities for juveniles committed to the
39 department. Pretrial confinement or confinement of less than 31 days

1 imposed as part of a disposition or modification order may be served
2 consecutively or intermittently, in the discretion of the court;

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

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

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

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

19 (9) "Custodial interrogation" means express questioning or other
20 actions or words by a law enforcement officer which are reasonably
21 likely to elicit an incriminating response from an individual and
22 occurs when reasonable individuals in the same circumstances would
23 consider themselves in custody;

24 (10) "Department" means the department of children, youth, and
25 families;

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

32 (12) "Diversion unit" means any probation counselor who enters
33 into a diversion agreement with an alleged youthful offender, or any
34 other person, community accountability board, youth court under the
35 supervision of the juvenile court, or other entity with whom the
36 juvenile court administrator has contracted to arrange and supervise
37 such agreements pursuant to RCW 13.40.080, or any person, community
38 accountability board, or other entity specially funded by the
39 legislature to arrange and supervise diversion agreements in
40 accordance with the requirements of this chapter. For purposes of

1 this subsection, "community accountability board" means a board
2 comprised of members of the local community in which the juvenile
3 offender resides. The superior court shall appoint the members. The
4 boards shall consist of at least three and not more than seven
5 members. If possible, the board should include a variety of
6 representatives from the community, such as a law enforcement
7 officer, teacher or school administrator, high school student,
8 parent, and business owner, and should represent the cultural
9 diversity of the local community;

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

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

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

20 (16) "Juvenile," "youth," and "child" mean any individual who is
21 under the chronological age of 18 years and who has not been
22 previously transferred to adult court pursuant to RCW 13.40.110,
23 unless the individual was convicted of a lesser charge or acquitted
24 of the charge for which he or she was previously transferred pursuant
25 to RCW 13.40.110 or who is not otherwise under adult court
26 jurisdiction;

27 (17) "Juvenile offender" means any juvenile who has been found by
28 the juvenile court to have committed an offense, including a person
29 18 years of age or older over whom jurisdiction has been extended
30 under RCW 13.40.300;

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

34 (19) "Local sanctions" means one or more of the following: (a)
35 0-30 days of confinement; (b) 0-12 months of community supervision;
36 or (c) 0-150 hours of community restitution(~~(; or (d) \$0-\$500 fine)~~);

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

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

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

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

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

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

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

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

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

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

39 (27) "Restitution" means financial reimbursement by the offender
40 to the victim, and shall be limited to easily ascertainable damages

1 for injury to or loss of property, actual expenses incurred for
2 medical treatment for physical injury to persons, lost wages
3 resulting from physical injury, and costs of the victim's counseling
4 reasonably related to the offense. Restitution shall not include
5 reimbursement for damages for mental anguish, pain and suffering, or
6 other intangible losses. Nothing in this chapter shall limit or
7 replace civil remedies or defenses available to the victim or
8 offender;

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

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

18 (a) Physical restraint; or

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

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

28 (31) "Secretary" means the secretary of the department;

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

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

35 (34) "Sexual motivation" means that one of the purposes for which
36 the respondent committed the offense was for the purpose of the
37 respondent's sexual gratification;

38 (35) "Surety" means an entity licensed under state insurance laws
39 or by the state department of licensing, to write corporate,
40 property, or probation bonds within the state, and justified and

1 approved by the superior court of the county having jurisdiction of
2 the case;

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

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

13 (38) "Violent offense" means a violent offense as defined in RCW
14 9.94A.030;

15 (39) "Youth court" means a diversion unit under the supervision
16 of the juvenile court.

17 **Sec. 17.** RCW 13.40.162 and 2020 c 249 s 1 are each amended to
18 read as follows:

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

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

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

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

32 (a) The report of the examination shall include at a minimum the
33 following:

34 (i) The respondent's version of the facts and the official
35 version of the facts;

36 (ii) The respondent's offense history;

37 (iii) An assessment of problems in addition to alleged deviant
38 behaviors;

1 (iv) The respondent's social, educational, and employment
2 situation;

3 (v) Other evaluation measures used.

4 The report shall set forth the sources of the evaluator's
5 information.

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

10 (i) The frequency and type of contact between the offender and
11 therapist;

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

14 (iii) Monitoring plans, including any requirements regarding
15 living conditions, lifestyle requirements, and monitoring by family
16 members, legal guardians, or others;

17 (iv) Anticipated length of treatment; and

18 (v) Recommended crime-related prohibitions.

19 (c) ~~((The))~~ For good cause shown, the court on its own motion may
20 order, or on a motion by the state shall order, a second examination
21 regarding the offender's amenability to treatment. The evaluator
22 shall be selected by the party making the motion. ~~((The defendant
23 shall pay the cost of any second examination ordered unless the court
24 finds the defendant to be indigent in which case the state shall pay
25 the cost.))~~

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

39 (4) As a condition of the suspended disposition, the court may
40 impose the conditions of community supervision and other conditions,

1 including up to (~~thirty~~) 30 days of confinement and requirements
2 that the offender do any one or more of the following:

3 (a) Devote time to a specific education, employment, or
4 occupation;

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

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

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

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

22 (f) Pay (~~all court-ordered legal financial obligations,~~
23 ~~perform~~) restitution and perform community restitution, or any
24 combination thereof;

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

27 (h) Comply with the conditions of any court-ordered probation
28 bond.

29 (5) If the court orders (~~twenty-four~~) 24 hour, continuous
30 monitoring of the offender while on probation, the court shall
31 include the basis for this condition in its findings.

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

35 (b) The parents or legal guardians of the offender are
36 responsible for transportation or other costs associated with the
37 offender's change of school that would otherwise be paid by the
38 school district.

39 (c) The court shall send notice of the disposition and
40 restriction on attending the same school as the victim or victim's

1 siblings to the public or approved private school the juvenile will
2 attend, if known, or if unknown, to the approved private schools and
3 the public school district board of directors of the district in
4 which the juvenile resides or intends to reside. This notice must be
5 sent at the earliest possible date but not later than (~~ten~~) 10
6 calendar days after entry of the disposition.

7 (7) For offenders required to register under RCW 9A.44.130, at
8 the end of the supervision ordered under this disposition
9 alternative, there is a presumption that the offender is sufficiently
10 rehabilitated to warrant removal from the central registry of sex
11 offenders. The court shall relieve the offender's duty to register
12 unless the court finds that the offender is not sufficiently
13 rehabilitated to warrant removal and may consider the following
14 factors:

15 (a) The nature of the offense committed, including the number of
16 victims and the length of the offense history;

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

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

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

20 (e) Any input from community corrections officers, juvenile
21 parole or probation officers, law enforcement, or treatment
22 providers;

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

24 (g) The juvenile's participation in other treatment and
25 rehabilitative programs;

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

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

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

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

31 (l) Any input of the victim; and

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

33 (8) (a) The sex offender treatment provider shall submit quarterly
34 reports on the respondent's progress in treatment to the court and
35 the parties. The reports shall reference the treatment plan and
36 include at a minimum the following: Dates of attendance, respondent's
37 compliance with requirements, treatment activities, the respondent's
38 relative progress in treatment, and any other material specified by
39 the court at the time of the disposition.

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

3 (c) Except as provided in this subsection, examinations and
4 treatment ordered pursuant to this subsection shall be conducted by
5 qualified professionals as described under (d) of this subsection,
6 certified sex offender treatment providers, or certified affiliate
7 sex offender treatment providers under chapter 18.155 RCW.

8 (d) A sex offender therapist who examines or treats a juvenile
9 sex offender pursuant to this subsection does not have to be
10 certified by the department of health pursuant to chapter 18.155 RCW
11 if the therapist is a professional licensed under chapter 18.225 or
12 18.83 RCW and the treatment employed is evidence-based for sex
13 offender treatment, or if the court finds that: (i) The offender has
14 already moved to another state or plans to move to another state for
15 reasons other than circumventing the certification requirements; (ii)
16 no certified sex offender treatment providers or certified affiliate
17 sex offender treatment providers are available for treatment within a
18 reasonable geographical distance of the offender's home; and (iii)
19 the evaluation and treatment plan comply with this subsection and the
20 rules adopted by the department of health.

21 (9) (a) If the offender violates any condition of the disposition
22 or the court finds that the respondent is failing to make
23 satisfactory progress in treatment, the court may revoke the
24 suspension and order execution of the disposition or the court may
25 impose a penalty of up to (~~thirty~~) 30 days confinement for
26 violating conditions of the disposition.

27 (b) The court may order both execution of the disposition and up
28 to (~~thirty~~) 30 days confinement for the violation of the conditions
29 of the disposition.

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

33 (10) For purposes of this section, "victim" means any person who
34 has sustained emotional, psychological, physical, or financial injury
35 to person or property as a direct result of the crime charged.
36 "Victim" may also include a known parent or guardian of a victim who
37 is a minor child unless the parent or guardian is the perpetrator of
38 the offense.

39 (11) The respondent or the parent, guardian, or other person
40 having custody of the respondent shall not be required to pay the

1 cost of any evaluation or treatment of the respondent ordered under
2 this section.

3 (12) A disposition entered under this section is not appealable
4 under RCW 13.40.230.

5 **Sec. 18.** RCW 13.40.165 and 2019 c 325 s 5007 are each amended to
6 read as follows:

7 (1) The purpose of this disposition alternative is to ensure that
8 successful treatment options to reduce recidivism are available to
9 eligible youth, pursuant to RCW 71.24.615. It is also the purpose of
10 the disposition alternative to assure that minors in need of
11 substance use disorder, mental health, and/or co-occurring disorder
12 treatment receive an appropriate continuum of culturally relevant
13 care and treatment, including prevention and early intervention,
14 self-directed care, parent-directed care, and residential treatment.
15 To facilitate the continuum of care and treatment to minors in out-
16 of-home placements, all divisions of the department that provide
17 these services to minors shall jointly plan and deliver these
18 services. It is also the purpose of the disposition alternative to
19 protect the rights of minors against needless hospitalization and
20 deprivations of liberty and to enable treatment decisions to be made
21 in response to clinical needs and in accordance with sound
22 professional judgment. The mental health, substance abuse, and co-
23 occurring disorder treatment providers shall, to the extent possible,
24 offer services that involve minors' parents, guardians, and family.

25 (2) The court must consider eligibility for the substance use
26 disorder or mental health disposition alternative when a juvenile
27 offender is subject to a standard range disposition of local
28 sanctions or 15 to 36 weeks of confinement and has not committed an
29 A- or B+ offense, other than a first time B+ offense under chapter
30 69.50 RCW. The court, on its own motion or the motion of the state or
31 the respondent if the evidence shows that the offender may be
32 chemically dependent, substance abusing, or has significant mental
33 health or co-occurring disorders may order an examination by a
34 substance use disorder counselor from a substance use disorder
35 treatment facility approved under chapter 70.96A RCW or a mental
36 health professional as defined in chapter 71.34 RCW to determine if
37 the youth is chemically dependent, substance abusing, or suffers from
38 significant mental health or co-occurring disorders. (~~The offender~~
39 ~~shall pay the cost of any examination ordered under this subsection~~

1 ~~unless the court finds that the offender is indigent and no third~~
2 ~~party insurance coverage is available, in which case the state shall~~
3 ~~pay the cost.)~~ The state shall pay the cost of any examination
4 ordered under this subsection unless third-party insurance coverage
5 is available.

6 (3) The report of the examination shall include at a minimum the
7 following: The respondent's version of the facts and the official
8 version of the facts, the respondent's offense history, an assessment
9 of drug-alcohol problems, mental health diagnoses, previous treatment
10 attempts, the respondent's social, educational, and employment
11 situation, and other evaluation measures used. The report shall set
12 forth the sources of the examiner's information.

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

16 (a) Whether inpatient and/or outpatient treatment is recommended;

17 (b) Availability of appropriate treatment;

18 (c) Monitoring plans, including any requirements regarding living
19 conditions, lifestyle requirements, and monitoring by family members,
20 legal guardians, or others;

21 (d) Anticipated length of treatment; and

22 (e) Recommended crime-related prohibitions.

23 (5) The court on its own motion may order, or on a motion by the
24 state or the respondent shall order, a second examination. The
25 evaluator shall be selected by the party making the motion. The
26 requesting party shall pay the cost of any examination ordered under
27 this subsection unless the requesting party is the offender (~~and the~~
28 ~~court finds that the offender is indigent and no third party~~
29 ~~insurance coverage is available)), in which case the state shall pay
30 the cost if no third-party insurance coverage is available.~~

31 (6) (a) After receipt of reports of the examination, the court
32 shall then consider whether the offender and the community will
33 benefit from use of this disposition alternative and consider the
34 victim's opinion whether the offender should receive a treatment
35 disposition under this section.

36 (b) If the court determines that this disposition alternative is
37 appropriate, then the court shall impose the standard range for the
38 offense, or if the court concludes, and enters reasons for its
39 conclusion, that such disposition would effectuate a manifest
40 injustice, the court shall impose a disposition above the standard

1 range as indicated in option D of RCW 13.40.0357 if the disposition
2 is an increase from the standard range and the confinement of the
3 offender does not exceed a maximum of (~~(fifty-two)~~) 52 weeks, suspend
4 execution of the disposition, and place the offender on community
5 supervision for up to one year. As a condition of the suspended
6 disposition, the court shall require the offender to undergo
7 available outpatient drug/alcohol, mental health, or co-occurring
8 disorder treatment and/or inpatient mental health or drug/alcohol
9 treatment. The court shall only order inpatient treatment under this
10 section if a funded bed is available. If the inpatient treatment is
11 longer than (~~(ninety)~~) 90 days, the court shall hold a review hearing
12 every (~~(thirty)~~) 30 days beyond the initial (~~(ninety)~~) 90 days. The
13 respondent may appear telephonically at these review hearings if in
14 compliance with treatment. As a condition of the suspended
15 disposition, the court may impose conditions of community supervision
16 and other sanctions, including up to (~~(thirty)~~) 30 days of
17 confinement, (~~(one-hundred-fifty)~~) 150 hours of community
18 restitution, and payment of (~~(legal-financial-obligations-and)~~)
19 restitution.

20 (7) The mental health/co-occurring disorder/drug/alcohol
21 treatment provider shall submit monthly reports on the respondent's
22 progress in treatment to the court and the parties. The reports shall
23 reference the treatment plan and include at a minimum the following:
24 Dates of attendance, respondent's compliance with requirements,
25 treatment activities, the respondent's relative progress in
26 treatment, and any other material specified by the court at the time
27 of the disposition.

28 At the time of the disposition, the court may set treatment
29 review hearings as the court considers appropriate.

30 If the offender violates any condition of the disposition or the
31 court finds that the respondent is failing to make satisfactory
32 progress in treatment, the court may impose sanctions pursuant to RCW
33 13.40.200 or revoke the suspension and order execution of the
34 disposition. The court shall give credit for any confinement time
35 previously served if that confinement was for the offense for which
36 the suspension is being revoked.

37 (8) For purposes of this section, "victim" means any person who
38 has sustained emotional, psychological, physical, or financial injury
39 to person or property as a direct result of the offense charged.
40 "Victim" may also include a known parent or guardian of a victim who

1 is a minor child or is not a minor child but is incapacitated,
2 incompetent, disabled, or deceased.

3 (9) Whenever a juvenile offender is entitled to credit for time
4 spent in detention prior to a dispositional order, the dispositional
5 order shall specifically state the number of days of credit for time
6 served.

7 (10) In no case shall the term of confinement imposed by the
8 court at disposition exceed that to which an adult could be subjected
9 for the same offense.

10 (11) A disposition under this section is not appealable under RCW
11 13.40.230.

12 (12) Subject to funds appropriated for this specific purpose, the
13 costs incurred by the juvenile courts for the mental health,
14 substance use disorder, and/or co-occurring disorder evaluations,
15 treatment, and costs of supervision required under this section shall
16 be paid by the health care authority.

17 (13) A juvenile, or the parent, guardian, or other person having
18 custody of the juvenile shall not be required to pay the cost of any
19 evaluation or treatment ordered under this section.

20 **Sec. 19.** RCW 13.40.180 and 2012 c 177 s 3 are each amended to
21 read as follows:

22 (1) Where a disposition in a single disposition order is imposed
23 on a youth for two or more offenses, the terms shall run
24 consecutively, subject to the following limitations:

25 (a) Where the offenses were committed through a single act or
26 omission, omission, or through an act or omission which in itself
27 constituted one of the offenses and also was an element of the other,
28 the aggregate of all the terms shall not exceed ~~((one hundred fifty))~~
29 150 percent of the term imposed for the most serious offense;

30 (b) The aggregate of all consecutive terms shall not exceed three
31 hundred percent of the term imposed for the most serious offense; and

32 (c) The aggregate of all consecutive terms of community
33 supervision shall not exceed two years in length, or require any
34 payment of ~~((more than two hundred dollars in))~~ fines or the
35 performance of more than ~~((two hundred))~~ 200 hours of community
36 restitution.

37 (2) Where disposition in separate disposition orders is imposed
38 on a youth, the periods of community supervision contained in

1 separate orders, if any, shall run concurrently. All other terms
2 contained in separate disposition orders shall run consecutively.

3 **Sec. 20.** RCW 13.40.192 and 2015 c 265 s 7 are each amended to
4 read as follows:

5 (1) If a juvenile is ordered to pay (~~legal—financial~~
6 ~~obligations, including fines, penalty assessments, attorneys' fees,~~
7 ~~court costs, and~~) restitution, the money judgment remains
8 enforceable for a period of (~~ten~~) 10 years. When the juvenile
9 reaches the age of (~~eighteen~~) 18 years or at the conclusion of
10 juvenile court jurisdiction, whichever occurs later, the superior
11 court clerk must docket the remaining balance of the juvenile's
12 (~~legal—financial obligations~~) restitution in the same manner as
13 other judgments for the payment of money. The judgment remains valid
14 and enforceable until (~~ten~~) 10 years from the date of its
15 imposition. The clerk of the superior court may seek extension of the
16 judgment for (~~legal—financial obligations, including crime victims'~~
17 ~~assessments,~~) restitution in the same manner as RCW 6.17.020 for
18 purposes of collection as allowed under RCW 36.18.190.

19 (2) A (~~respondent under obligation to pay~~) judgment against a
20 juvenile for any legal financial obligation(~~s~~) other than
21 restitution(~~, the victim penalty assessment set forth in RCW~~
22 ~~7.68.035, or the crime laboratory analysis fee set forth in RCW~~
23 ~~43.43.690 may petition the court for modification or relief from~~
24 ~~those legal financial obligations and interest accrued on those~~
25 ~~obligations for good cause shown, including inability to pay. The~~
26 ~~court shall consider factors such as, but not limited to~~
27 ~~incarceration and a respondent's other debts, including restitution,~~
28 ~~when determining a respondent's ability to pay~~) including, but not
29 limited to, fines, penalty assessments, attorneys' fees, court costs,
30 and other administrative fees, is not enforceable after the effective
31 date of this section. The superior court clerk shall not accept
32 payments from a respondent who was ordered to pay legal financial
33 obligations, including fines, penalty assessments, attorneys' fees,
34 and court costs after the effective date of this section.

35 **Sec. 21.** RCW 13.40.200 and 2004 c 120 s 7 are each amended to
36 read as follows:

37 (1) When a respondent fails to comply with an order of
38 restitution, community supervision, (~~penalty assessments,~~) or

1 confinement of less than (~~thirty~~) 30 days, the court upon motion of
2 the prosecutor or its own motion, may modify the order after a
3 hearing on the violation.

4 (2) The hearing shall afford the respondent the same due process
5 of law as would be afforded an adult probationer. The court may issue
6 a summons or a warrant to compel the respondent's appearance. The
7 state shall have the burden of proving by a preponderance of the
8 evidence the fact of the violation. The respondent shall have the
9 burden of showing that the violation was not a willful refusal to
10 comply with the terms of the order. If a respondent has failed to pay
11 (~~a fine, penalty assessments, or~~) restitution or to perform
12 community restitution hours, as required by the court, it shall be
13 the respondent's burden to show that he or she did not have the means
14 and could not reasonably have acquired the means to pay the (~~fine,~~
15 ~~penalty assessments, or~~) restitution or to perform community
16 restitution.

17 (3) If the court finds that a respondent has willfully violated
18 the terms of an order pursuant to subsections (1) and (2) of this
19 section, it may impose a penalty of up to (~~thirty~~) 30 days'
20 confinement. Penalties for multiple violations occurring prior to the
21 hearing shall not be aggregated to exceed (~~thirty~~) 30 days'
22 confinement. Regardless of the number of times a respondent is
23 brought to court for violations of the terms of a single disposition
24 order, the combined total number of days spent by the respondent in
25 detention shall never exceed the maximum term to which an adult could
26 be sentenced for the underlying offense.

27 (~~If a respondent has been ordered to pay a fine or monetary~~
28 ~~penalty and due to a change of circumstance cannot reasonably comply~~
29 ~~with the order, the court, upon motion of the respondent, may order~~
30 ~~that the unpaid fine or monetary penalty be converted to community~~
31 ~~restitution unless the monetary penalty is the crime victim penalty~~
32 ~~assessment, which cannot be converted, waived, or otherwise modified,~~
33 ~~except for schedule of payment. The number of hours of community~~
34 ~~restitution in lieu of a monetary penalty or fine shall be converted~~
35 ~~at the rate of the prevailing state minimum wage per hour. The~~
36 ~~monetary penalties or fines collected shall be deposited in the~~
37 ~~county general fund. A failure to comply with an order under this~~
38 ~~subsection shall be deemed a failure to comply with an order of~~
39 ~~community supervision and may be proceeded against as provided in~~
40 ~~this section.~~

1 ~~(5))~~) When a respondent has willfully violated the terms of a
2 probation bond, the court may modify, revoke, or retain the probation
3 bond as provided in RCW 13.40.054.

4 NEW SECTION. **Sec. 22.** Nothing in this act requires a court to
5 refund or reimburse amounts previously paid towards legal financial
6 obligations, interests on legal financial obligations, or any other
7 costs.

8 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
9 each repealed:

- 10 (1) RCW 13.40.056 (Nonrefundable bail fee) and 1995 c 395 s 9;
11 (2) RCW 13.40.085 (Diversion services costs—Fees—Payment by
12 parent or legal guardian) and 1993 c 171 s 1;
13 (3) RCW 13.40.198 (Penalty assessments—Jurisdiction of court) and
14 2000 c 71 s 1; and
15 (4) RCW 13.40.640 (Youth court nonrefundable fee) and 2002 c 237
16 s 15.

17 NEW SECTION. **Sec. 24.** Section 15 of this act takes effect when
18 section 3, chapter 206, Laws of 2021 takes effect.

19 NEW SECTION. **Sec. 25.** Section 16 of this act expires when
20 section 15 of this act takes effect.

21 NEW SECTION. **Sec. 26.** If specific funding for the purposes of
22 this act, referencing this act by bill or chapter number, is not
23 provided by June 30, 2023, in the omnibus appropriations act, this
24 act is null and void.

25 NEW SECTION. **Sec. 27.** Except for section 15 of this act, this
26 act is necessary for the immediate preservation of the public peace,
27 health, or safety, or support of the state government and its
28 existing public institutions, and takes effect July 1, 2023.

--- END ---