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HOUSE BILL 1164

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State of Washington                      54th Legislature                      1995 Regular Session

By Representatives Kremen, Kessler, McMorris, Costa and Basich

Read first time 01/16/95. Referred to Committee on Law and Justice.

1            AN ACT Relating to crimes; and amending RCW 9A.16.050 and  
2 13.40.150.

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

4            **Sec. 1.** RCW 9A.16.050 and 1975 1st ex.s. c 260 s 9A.16.050 are  
5 each amended to read as follows:

6            Homicide is also justifiable when committed either:

7            (1) In the lawful defense of the slayer, or his or her husband,  
8 wife, parent, child, brother, or sister, or of any other person in his  
9 or her presence or company, when there is reasonable ground to  
10 apprehend a design on the part of the person slain to commit a felony  
11 or to do some great personal injury to the slayer or to any such  
12 person, and there is (~~imminent~~) immediate danger of such design being  
13 accomplished; or

14            (2) In the actual resistance of an attempt to commit a felony upon  
15 the slayer, in his or her presence, or upon or in a dwelling, or other  
16 place of abode, in which he or she is.

17            **Sec. 2.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to  
18 read as follows:

1 (1) In disposition hearings all relevant and material evidence,  
2 including oral and written reports, may be received by the court and  
3 may be relied upon to the extent of its probative value, even though  
4 such evidence may not be admissible in a hearing on the information.  
5 The youth or the youth's counsel and the prosecuting attorney shall be  
6 afforded an opportunity to examine and controvert written reports so  
7 received and to cross-examine individuals making reports when such  
8 individuals are reasonably available, but sources of confidential  
9 information need not be disclosed. The prosecutor and counsel for the  
10 juvenile may submit recommendations for disposition.

11 (2) For purposes of disposition:

12 (a) Violations which are current offenses count as misdemeanors;

13 (b) Violations may not count as part of the offender's criminal  
14 history;

15 (c) In no event may a disposition for a violation include  
16 confinement.

17 (3) Before entering a dispositional order as to a respondent found  
18 to have committed an offense, the court shall hold a disposition  
19 hearing, at which the court shall:

20 (a) Consider the facts supporting the allegations of criminal  
21 conduct by the respondent;

22 (b) Consider information and arguments offered by parties and their  
23 counsel;

24 (c) Consider any predisposition reports;

25 (d) Consult with the respondent's parent, guardian, or custodian on  
26 the appropriateness of dispositional options under consideration and  
27 afford the respondent and the respondent's parent, guardian, or  
28 custodian an opportunity to speak in the respondent's behalf;

29 (e) Allow the victim or a representative of the victim and an  
30 investigative law enforcement officer to speak;

31 (f) Determine the amount of restitution owing to the victim, if  
32 any;

33 (g) Determine whether the respondent is a serious offender, a  
34 middle offender, or a minor or first offender;

35 (h) Consider whether or not any of the following mitigating factors  
36 exist:

37 (i) The respondent's conduct neither caused nor threatened serious  
38 bodily injury or the respondent did not contemplate that his or her  
39 conduct would cause or threaten serious bodily injury;

1 (ii) The respondent acted under strong and immediate provocation;

2 (iii) The respondent was suffering from a mental or physical  
3 condition that significantly reduced his or her culpability for the  
4 offense though failing to establish a defense;

5 (iv) Prior to his or her detection, the respondent compensated or  
6 made a good faith attempt to compensate the victim for the injury or  
7 loss sustained; ((and))

8 (v) There has been at least one year between the respondent's  
9 current offense and any prior criminal offense; and

10 (vi) The respondent suffered a continuing pattern of physical or  
11 sexual abuse by the victim of the offense and the offense is a response  
12 to that abuse;

13 (i) Consider whether or not any of the following aggravating  
14 factors exist:

15 (i) In the commission of the offense, or in flight therefrom, the  
16 respondent inflicted or attempted to inflict serious bodily injury to  
17 another;

18 (ii) The offense was committed in an especially heinous, cruel, or  
19 depraved manner;

20 (iii) The victim or victims were particularly vulnerable;

21 (iv) The respondent has a recent criminal history or has failed to  
22 comply with conditions of a recent dispositional order or diversion  
23 agreement;

24 (v) The current offense included a finding of sexual motivation  
25 pursuant to RCW 9.94A.127;

26 (vi) The respondent was the leader of a criminal enterprise  
27 involving several persons; and

28 (vii) There are other complaints which have resulted in diversion  
29 or a finding or plea of guilty but which are not included as criminal  
30 history.

31 (4) The following factors may not be considered in determining the  
32 punishment to be imposed:

33 (a) The sex of the respondent;

34 (b) The race or color of the respondent or the respondent's family;

35 (c) The creed or religion of the respondent or the respondent's  
36 family;

37 (d) The economic or social class of the respondent or the  
38 respondent's family; and

1 (e) Factors indicating that the respondent may be or is a dependent  
2 child within the meaning of this chapter.

3 (5) A court may not commit a juvenile to a state institution solely  
4 because of the lack of facilities, including treatment facilities,  
5 existing in the community.

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