

2 **SB 5692** - S AMD 499

3 By Senators Hargrove, Costa and Long

4 ADOPTED 02/01/02

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Court" when used without further qualification means the
10 district court under chapter 3.30 RCW, the municipal department under
11 chapter 3.46 RCW, or the municipal court under chapter 3.50 or 35.20
12 RCW.

13 (2) "Traffic infraction" means those acts defined as traffic
14 infractions by RCW 46.63.020.

15 (3) "Youth court" means an alternative method of hearing and
16 disposing of traffic infractions for juveniles age sixteen or
17 seventeen.

18 NEW SECTION. **Sec. 2.** (1) A court created under chapter 3.30,
19 3.46, 3.50, or 35.20 RCW may create a youth court. The youth court
20 shall have jurisdiction over traffic infractions alleged to have been
21 committed by juveniles age sixteen or seventeen. The court may refer
22 a juvenile to the youth court upon request of any party or upon its own
23 motion.

24 (2) To be referred to a youth court, a juvenile:

25 (a) May not have a prior traffic infraction;

26 (b) May not be under the jurisdiction of any court for a violation
27 of any provision of Title 46 RCW;

28 (c) May not have any convictions for a violation of any provision
29 of Title 46 RCW; and

30 (d) Must acknowledge that there is a high likelihood that he or she
31 would be found to have committed the traffic infraction.

32 NEW SECTION. **Sec. 3.** (1) A youth court agreement shall be a
33 contract between a juvenile accused of a traffic infraction and a youth
34 court whereby the juvenile agrees to fulfill certain conditions in lieu

1 of a determination that a traffic infraction occurred. Such agreements
2 may be entered into only after the law enforcement authority has
3 determined that probable cause exists to believe that a traffic
4 infraction has been committed and that the juvenile committed it. A
5 youth court agreement shall be reduced to writing and signed by the
6 youth and his or her parent, guardian, or legal custodian accepting the
7 terms of the agreement. Such agreements shall be entered into as
8 expeditiously as possible.

9 (2) A youth court agreement shall be limited to one or more of the
10 following:

11 (a) Community service not to exceed one hundred fifty hours, not to
12 be performed during school hours if the juvenile is attending school;

13 (b) Restitution limited to the amount of actual loss incurred by
14 any victim;

15 (c) Attendance at up to ten hours of counseling and/or up to twenty
16 hours of educational or informational sessions at a community agency.
17 The educational or informational sessions may include sessions relating
18 to respect for self, others, and authority; victim awareness;
19 accountability; self-worth; responsibility; work ethics; good
20 citizenship; literacy; and life skills. For purposes of this section,
21 "community agency" includes a community-based nonprofit organization,
22 if approved by the youth court. The state shall not be liable for
23 costs resulting from the youth court exercising the option to permit an
24 agreement to mandate attendance at up to ten hours of counseling and/or
25 up to twenty hours of educational or informational sessions;

26 (d) A monetary penalty, not to exceed one hundred dollars. In
27 determining the amount of the monetary penalty, the youth court shall
28 consider only the juvenile's financial resources and whether the
29 juvenile has the means to pay the monetary penalty. The youth court
30 shall not consider the financial resources of the juvenile's parents,
31 guardian, or custodian in determining the monetary penalty to be
32 imposed;

33 (e) Requirements to remain during specified hours at home, school,
34 or work, and restrictions on leaving or entering specified geographical
35 areas;

36 (f) Upon request of any victim or witness, requirements to refrain
37 from any contact with victims or witnesses of traffic infractions
38 committed by the juvenile;

1 (g) Participating in law-related education classes, appropriate
2 counseling, treatment, or other education programs;

3 (h) Providing periodic reports to the youth court;

4 (i) Participating in mentoring programs;

5 (j) Serving as a participant in future youth court proceedings;

6 (k) Writing apology letters; or

7 (l) Writing essays.

8 (3) Youth courts shall not impose a term of confinement or
9 detention. Youth courts may require that the youth pay reasonable fees
10 to participate in youth court and in classes, counseling, treatment, or
11 other educational programs that are the disposition of the youth court.

12 (a) Except as provided in subsection (5) of this section, a youth
13 court disposition shall be completed within one hundred eighty days
14 from the date of referral.

15 (b) The youth court shall notify the court upon successful or
16 unsuccessful completion of the disposition.

17 (4) In assessing periods of community service to be performed and
18 restitution to be paid by a juvenile who has entered into a youth court
19 agreement, the court officer to whom this task is assigned shall
20 consult with the juvenile's custodial parent or parents or guardian and
21 victims who have contacted the youth court and, to the extent possible,
22 involve members of the community. Such members of the community shall
23 meet with the juvenile and advise the court officer as to the terms of
24 the youth court agreement and shall supervise the juvenile in carrying
25 out its terms.

26 (5)(a) A youth court agreement may not exceed a period of six
27 months and may include a period extending beyond the eighteenth
28 birthday of the youth.

29 (b) If additional time is necessary for the juvenile to complete
30 restitution to a victim, the time period limitations of this subsection
31 may be extended by an additional six months.

32 (c) If the juvenile has not paid the full amount of restitution by
33 the end of the additional six-month period, then the juvenile shall be
34 referred to the court for entry of an order establishing the amount of
35 restitution still owed to the victim. In this order, the court shall
36 also determine the terms and conditions of the restitution, including
37 a payment plan extending up to ten years if the court determines that
38 the juvenile does not have the means to make full restitution over a
39 shorter period. For the purposes of this subsection (5)(c), the

1 juvenile shall remain under the court's jurisdiction for a maximum term
2 of ten years after the juvenile's eighteenth birthday. Prior to the
3 expiration of the initial ten-year period, the court may extend the
4 judgment for restitution an additional ten years. The court may not
5 require the juvenile to pay full or partial restitution if the juvenile
6 reasonably satisfies the court that he or she does not have the means
7 to make full or partial restitution and could not reasonably acquire
8 the means to pay the restitution over a ten-year period. The court
9 shall make disbursements to victims named in the order. The
10 restitution to victims named in the order shall be paid prior to any
11 payment for other penalties or monetary assessments. A juvenile under
12 obligation to pay restitution may petition the court for modification
13 of the restitution order.

14 (6) The juvenile shall retain the right to be referred to the court
15 at any time prior to the signing of the youth court agreement.

16 (7) Any juvenile who is, or may be, referred to a youth court shall
17 be afforded due process in all contacts with the youth court regardless
18 of whether the juveniles are accepted by the youth court or whether the
19 youth court program is successfully completed. Such due process shall
20 include, but not be limited to, the following:

21 (a) A written agreement shall be executed stating all conditions in
22 clearly understandable language;

23 (b) Violation of the terms of the agreement shall be the only
24 grounds for termination;

25 (c) No juvenile may be terminated from a youth court program
26 without being given a court hearing, which hearing shall be preceded
27 by:

28 (i) Written notice of alleged violations of the conditions of the
29 youth court program; and

30 (ii) Disclosure of all evidence to be offered against the juvenile;

31 (d) The hearing shall be conducted by the court and shall include:

32 (i) Opportunity to be heard in person and to present evidence;

33 (ii) The right to confront and cross-examine all adverse witnesses;

34 (iii) A written statement by the court as to the evidence relied on
35 and the reasons for termination, should that be the decision; and

36 (iv) Demonstration by evidence that the juvenile has substantially
37 violated the terms of his or her youth court agreement.

1 (8) The youth court shall, subject to available funds, be
2 responsible for providing interpreters when juveniles need interpreters
3 to effectively communicate during youth court hearings or negotiations.

4 (9) The youth court shall be responsible for advising a juvenile of
5 his or her rights as provided in this chapter.

6 (10) The youth court may refer a juvenile to community-based
7 counseling or treatment programs.

8 (11) The right to counsel shall inure prior to the initial
9 interview for purposes of advising the juvenile as to whether he or she
10 desires to participate in the youth court process or to appear in the
11 court. The juvenile may be represented by counsel at any critical
12 stage of the process, including intake interviews and termination
13 hearings. The juvenile shall be fully advised at the intake interview
14 of his or her right to an attorney and of the relevant services an
15 attorney can provide. For the purpose of this section, intake
16 interviews mean all interviews regarding the youth court agreement
17 process.

18 (12) When a juvenile enters into a youth court agreement, the court
19 may receive only the following information for dispositional purposes:

20 (a) The fact that a traffic infraction was alleged to have been
21 committed;

22 (b) The fact that a youth court agreement was entered into;

23 (c) The juvenile's obligations under such agreement;

24 (d) Whether the juvenile performed his or her obligations under
25 such agreement; and

26 (e) The facts of the alleged traffic infraction.

27 (13) A youth court may refuse to enter into a youth court agreement
28 with a juvenile. When a youth court refuses to enter a youth court
29 agreement with a juvenile, it shall immediately refer such juvenile to
30 the court for action and shall forward to the court the criminal
31 complaint and a detailed statement of its reasons for refusing to enter
32 into a youth court agreement. The youth court shall also immediately
33 refer the case to the prosecuting attorney for action if such juvenile
34 violates the terms of the youth court agreement.

35 (14) A youth court may, in instances where it determines that the
36 act or omission of an act for which a juvenile has been referred to it
37 involved no victim, or where it determines that the juvenile referred
38 to it has no prior criminal history and is alleged to have committed a
39 traffic infraction involving no threat of or instance of actual

1 physical harm and involving not more than fifty dollars in property
2 loss or damage and that there is no loss outstanding to the person or
3 firm suffering such damage or loss, counsel and release or release such
4 a juvenile without entering into a youth court agreement. A youth
5 court's authority to counsel and release a juvenile under this
6 subsection includes the authority to refer the juvenile to community-
7 based counseling or treatment programs. A juvenile determined to be
8 eligible by a youth court for release as provided in this subsection
9 shall retain the same right to counsel and right to have his or her
10 case referred to the court for formal action as any other juvenile
11 referred to the youth court.

12 (15) A youth court may supervise the fulfillment of a youth court
13 agreement entered into before the juvenile's eighteenth birthday and
14 which includes a period extending beyond the juvenile's eighteenth
15 birthday.

16 (16) If a monetary penalty required by a youth court agreement
17 cannot reasonably be paid due to a change of circumstance, the youth
18 court agreement may be modified at the request of the juvenile and with
19 the concurrence of the youth court to convert an unpaid monetary
20 penalty into community service. The modification of the youth court
21 agreement shall be in writing and signed by the juvenile and the youth
22 court. The number of hours of community service in lieu of a monetary
23 penalty shall be converted at the rate of the prevailing state minimum
24 wage per hour.

25 (17) Monetary penalties imposed under this section shall be
26 collected and paid into the county general fund in accordance with
27 procedures established by the court and may be used only for juvenile
28 services. In the expenditure of funds for juvenile services, there
29 shall be a maintenance of effort whereby counties exhaust existing
30 resources before using amounts collected under this section.

31 NEW SECTION. **Sec. 4.** Youth courts provide a disposition method
32 for cases involving juveniles alleged to have committed traffic
33 infractions, in which participants, under the supervision of an adult
34 coordinator, may serve in various capacities within the program, acting
35 in the role of jurors, lawyers, bailiffs, clerks, and judges. Youth
36 courts have no jurisdiction except as provided for in this chapter.
37 Youth courts are not courts established under Article IV of the state
38 Constitution.

1 NEW SECTION. **Sec. 5.** (1) The administrative office of the courts
2 shall encourage the courts to work with cities and counties to
3 implement, expand, or use youth court programs for juveniles who commit
4 traffic infractions. Program operations of youth court programs may be
5 funded by government and private grants. Youth court programs are
6 limited to those that:

7 (a) Are developed using the guidelines for creating and operating
8 youth court programs developed by nationally recognized experts in
9 youth court projects;

10 (b) Target youth ages sixteen and seventeen who are alleged to have
11 committed a traffic infraction; and

12 (c) Emphasize the following principles:

13 (i) Youth must be held accountable for their problem behavior;

14 (ii) Youth must be educated about the impact their actions have on
15 themselves and others including their victims, their families, and
16 their community;

17 (iii) Youth must develop skills to resolve problems with their
18 peers more effectively; and

19 (iv) Youth should be provided a meaningful forum to practice and
20 enhance newly developed skills.

21 (2) Youth court programs may be established by law enforcement
22 entities, municipal courts, district courts, juvenile probation
23 departments, private nonprofit organizations, and schools, under the
24 supervision of the court.

25 NEW SECTION. **Sec. 6.** (1) Youth courts have authority over
26 juveniles ages sixteen and seventeen who:

27 (a) Along with their parent, guardian, or legal custodian,
28 voluntarily and in writing request youth court involvement;

29 (b) Admit they have committed the traffic infraction they are
30 referred for;

31 (c) Along with their parent, guardian, or legal custodian, waive
32 any privilege against self-incrimination concerning the offense; and

33 (d) Along with their parent, guardian, or legal custodian, agree to
34 comply with the youth court disposition of the case.

35 (2) Youth courts shall not exercise authority over youth who are
36 under the continuing jurisdiction of the juvenile court for law
37 violations, including a youth with a matter pending before the juvenile
38 court but which has not yet been adjudicated.

1 (3) Youth courts may decline to accept a youth for youth court
2 disposition for any reason and may terminate a youth from youth court
3 participation at any time.

4 (4) A youth or his or her parent, guardian, or legal custodian may
5 withdraw from the youth court process at any time.

6 (5) Youth courts shall give any victims of a juvenile the
7 opportunity to be notified, present, and heard in any youth court
8 proceeding.

9 NEW SECTION. **Sec. 7.** Youth court may not notify the court of
10 satisfaction of conditions until all ordered restitution has been paid.

11 NEW SECTION. **Sec. 8.** Every youth appearing before a youth court
12 shall be accompanied by his or her parent, guardian, or legal
13 custodian.

14 **Sec. 9.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to read
15 as follows:

16 For the purposes of this chapter:

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

26 (2) Community-based sanctions may include one or more of the
27 following:

28 (a) A fine, not to exceed five hundred dollars;

29 (b) Community service not to exceed one hundred fifty hours of
30 service;

31 (3) "Community service" means compulsory service, without
32 compensation, performed for the benefit of the community by the
33 offender as punishment for committing an offense. Community service
34 may be performed through public or private organizations or through
35 work crews;

1 (4) "Community supervision" means an order of disposition by the
2 court of an adjudicated youth not committed to the department or an
3 order granting a deferred disposition. A community supervision order
4 for a single offense may be for a period of up to two years for a sex
5 offense as defined by RCW 9.94A.030 and up to one year for other
6 offenses. As a mandatory condition of any term of community
7 supervision, the court shall order the juvenile to refrain from
8 committing new offenses. As a mandatory condition of community
9 supervision, the court shall order the juvenile to comply with the
10 mandatory school attendance provisions of chapter 28A.225 RCW and to
11 inform the school of the existence of this requirement. Community
12 supervision is an individualized program comprised of one or more of
13 the following:

- 14 (a) Community-based sanctions;
- 15 (b) Community-based rehabilitation;
- 16 (c) Monitoring and reporting requirements;
- 17 (d) Posting of a probation bond;

18 (5) "Confinement" means physical custody by the department of
19 social and health services in a facility operated by or pursuant to a
20 contract with the state, or physical custody in a detention facility
21 operated by or pursuant to a contract with any county. The county may
22 operate or contract with vendors to operate county detention
23 facilities. The department may operate or contract to operate
24 detention facilities for juveniles committed to the department.
25 Pretrial confinement or confinement of less than thirty-one days
26 imposed as part of a disposition or modification order may be served
27 consecutively or intermittently, in the discretion of the court;

28 (6) "Court," when used without further qualification, means the
29 juvenile court judge(s) or commissioner(s);

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

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

36 (b) The criminal complaint was diverted by a prosecutor pursuant to
37 the provisions of this chapter on agreement of the respondent and after
38 an advisement to the respondent that the criminal complaint would be
39 considered as part of the respondent's criminal history. A

1 successfully completed deferred adjudication that was entered before
2 July 1, 1998, or a deferred disposition shall not be considered part of
3 the respondent's criminal history;

4 (8) "Department" means the department of social and health
5 services;

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

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

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

33 (12) "Institution" means a juvenile facility established pursuant
34 to chapters 72.05 and 72.16 through 72.20 RCW;

35 (13) "Intensive supervision program" means a parole program that
36 requires intensive supervision and monitoring, offers an array of
37 individualized treatment and transitional services, and emphasizes
38 community involvement and support in order to reduce the likelihood a
39 juvenile offender will commit further offenses;

1 (14) "Juvenile," "youth," and "child" mean any individual who is
2 under the chronological age of eighteen years and who has not been
3 previously transferred to adult court pursuant to RCW 13.40.110 or who
4 is otherwise under adult court jurisdiction;

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

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

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

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

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

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

34 (21) "Respondent" means a juvenile who is alleged or proven to have
35 committed an offense;

36 (22) "Restitution" means financial reimbursement by the offender to
37 the victim, and shall be limited to easily ascertainable damages for
38 injury to or loss of property, actual expenses incurred for medical
39 treatment for physical injury to persons, lost wages resulting from

1 physical injury, and costs of the victim's counseling reasonably
2 related to the offense if the offense is a sex offense. Restitution
3 shall not include reimbursement for damages for mental anguish, pain
4 and suffering, or other intangible losses. Nothing in this chapter
5 shall limit or replace civil remedies or defenses available to the
6 victim or offender;

7 (23) "Secretary" means the secretary of the department of social
8 and health services. "Assistant secretary" means the assistant
9 secretary for juvenile rehabilitation for the department;

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

14 (25) "Sex offense" means an offense defined as a sex offense in RCW
15 9.94A.030;

16 (26) "Sexual motivation" means that one of the purposes for which
17 the respondent committed the offense was for the purpose of his or her
18 sexual gratification;

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

23 (28) "Violation" means an act or omission, which if committed by an
24 adult, must be proven beyond a reasonable doubt, and is punishable by
25 sanctions which do not include incarceration;

26 (29) "Violent offense" means a violent offense as defined in RCW
27 9.94A.030.

28 (30) "Youth court" means a diversion unit under the supervision of
29 the juvenile court.

30 **Sec. 10.** RCW 13.40.080 and 1999 c 91 s 1 are each amended to read
31 as follows:

32 (1) A diversion agreement shall be a contract between a juvenile
33 accused of an offense and a (~~diversionary~~) diversion unit whereby the
34 juvenile agrees to fulfill certain conditions in lieu of prosecution.
35 Such agreements may be entered into only after the prosecutor, or
36 probation counselor pursuant to this chapter, has determined that
37 probable cause exists to believe that a crime has been committed and

1 that the juvenile committed it. Such agreements shall be entered into
2 as expeditiously as possible.

3 (2) A diversion agreement shall be limited to one or more of the
4 following:

5 (a) Community service not to exceed one hundred fifty hours, not to
6 be performed during school hours if the juvenile is attending school;

7 (b) Restitution limited to the amount of actual loss incurred by
8 ~~((the))~~ any victim;

9 (c) Attendance at up to ten hours of counseling and/or up to twenty
10 hours of educational or informational sessions at a community agency.
11 The educational or informational sessions may include sessions relating
12 to respect for self, others, and authority; victim awareness;
13 accountability; self-worth; responsibility; work ethics; good
14 citizenship; literacy; and life skills. For purposes of this section,
15 "community agency" may also mean a community-based nonprofit
16 organization, if approved by the diversion unit. The state shall not
17 be liable for costs resulting from the ~~((diversionary))~~ diversion
18 exercising the option to permit diversion agreements to mandate
19 attendance at up to ten hours of counseling and/or up to twenty hours
20 of educational or informational sessions;

21 (d) A fine, not to exceed one hundred dollars. In determining the
22 amount of the fine, the diversion unit shall consider only the
23 juvenile's financial resources and whether the juvenile has the means
24 to pay the fine. The diversion unit shall not consider the financial
25 resources of the juvenile's parents, guardian, or custodian in
26 determining the fine to be imposed;

27 (e) Requirements to remain during specified hours at home, school,
28 or work, and restrictions on leaving or entering specified geographical
29 areas; and

30 (f) Upon request of ~~((the))~~ any victim or witness, requirements to
31 refrain from any contact with victims or witnesses of offenses
32 committed by the juvenile.

33 (3) Notwithstanding the provisions of subsection (2) of this
34 section, youth courts are not limited to the conditions imposed by
35 subsection (2) of this section in imposing sanctions on juveniles
36 pursuant to section 16 of this act.

37 (4) In assessing periods of community service to be performed and
38 restitution to be paid by a juvenile who has entered into a diversion
39 agreement, the court officer to whom this task is assigned shall

1 consult with the juvenile's custodial parent or parents or guardian and
2 victims who have contacted the (~~(diversionary)~~) diversion unit and, to
3 the extent possible, involve members of the community. Such members of
4 the community shall meet with the juvenile and advise the court officer
5 as to the terms of the diversion agreement and shall supervise the
6 juvenile in carrying out its terms.

7 (~~((4))~~) (5)(a) A diversion agreement may not exceed a period of six
8 months and may include a period extending beyond the eighteenth
9 birthday of the diverttee.

10 (b) If additional time is necessary for the juvenile to complete
11 restitution to (~~(the)~~) a victim, the time period limitations of this
12 subsection may be extended by an additional six months.

13 (c) If the juvenile has not paid the full amount of restitution by
14 the end of the additional six-month period, then the juvenile shall be
15 referred to the juvenile court for entry of an order establishing the
16 amount of restitution still owed to the victim. In this order, the
17 court shall also determine the terms and conditions of the restitution,
18 including a payment plan extending up to ten years if the court
19 determines that the juvenile does not have the means to make full
20 restitution over a shorter period. For the purposes of this subsection
21 (~~((4))~~) (5)(c), the juvenile shall remain under the court's
22 jurisdiction for a maximum term of ten years after the juvenile's
23 eighteenth birthday. Prior to the expiration of the initial ten-year
24 period, the juvenile court may extend the judgment for restitution an
25 additional ten years. The court may not require the juvenile to pay
26 full or partial restitution if the juvenile reasonably satisfies the
27 court that he or she does not have the means to make full or partial
28 restitution and could not reasonably acquire the means to pay the
29 restitution over a ten-year period. The county clerk shall make
30 disbursements to victims named in the order. The restitution to
31 victims named in the order shall be paid prior to any payment for other
32 penalties or monetary assessments. A juvenile under obligation to pay
33 restitution may petition the court for modification of the restitution
34 order.

35 (~~((5))~~) (6) The juvenile shall retain the right to be referred to
36 the court at any time prior to the signing of the diversion agreement.

37 (~~((6))~~) (7) Diverttees and potential diverttees shall be afforded due
38 process in all contacts with a (~~(diversionary)~~) diversion unit
39 regardless of whether the juveniles are accepted for diversion or

1 whether the diversion program is successfully completed. Such due
2 process shall include, but not be limited to, the following:

3 (a) A written diversion agreement shall be executed stating all
4 conditions in clearly understandable language;

5 (b) Violation of the terms of the agreement shall be the only
6 grounds for termination;

7 (c) No divertee may be terminated from a diversion program without
8 being given a court hearing, which hearing shall be preceded by:

9 (i) Written notice of alleged violations of the conditions of the
10 diversion program; and

11 (ii) Disclosure of all evidence to be offered against the divertee;

12 (d) The hearing shall be conducted by the juvenile court and shall
13 include:

14 (i) Opportunity to be heard in person and to present evidence;

15 (ii) The right to confront and cross-examine all adverse witnesses;

16 (iii) A written statement by the court as to the evidence relied on
17 and the reasons for termination, should that be the decision; and

18 (iv) Demonstration by evidence that the divertee has substantially
19 violated the terms of his or her diversion agreement.

20 (e) The prosecutor may file an information on the offense for which
21 the divertee was diverted:

22 (i) In juvenile court if the divertee is under eighteen years of
23 age; or

24 (ii) In superior court or the appropriate court of limited
25 jurisdiction if the divertee is eighteen years of age or older.

26 ~~((+7))~~ (8) The diversion unit shall, subject to available funds,
27 be responsible for providing interpreters when juveniles need
28 interpreters to effectively communicate during diversion unit hearings
29 or negotiations.

30 ~~((+8))~~ (9) The diversion unit shall be responsible for advising a
31 divertee of his or her rights as provided in this chapter.

32 ~~((+9))~~ (10) The diversion unit may refer a juvenile to community-
33 based counseling or treatment programs.

34 ~~((+10))~~ (11) The right to counsel shall inure prior to the initial
35 interview for purposes of advising the juvenile as to whether he or she
36 desires to participate in the diversion process or to appear in the
37 juvenile court. The juvenile may be represented by counsel at any
38 critical stage of the diversion process, including intake interviews
39 and termination hearings. The juvenile shall be fully advised at the

1 intake of his or her right to an attorney and of the relevant services
2 an attorney can provide. For the purpose of this section, intake
3 interviews mean all interviews regarding the diversion agreement
4 process.

5 The juvenile shall be advised that a diversion agreement shall
6 constitute a part of the juvenile's criminal history as defined by RCW
7 13.40.020(7). A signed acknowledgment of such advisement shall be
8 obtained from the juvenile, and the document shall be maintained by the
9 (~~(diversionary)~~) diversion unit together with the diversion agreement,
10 and a copy of both documents shall be delivered to the prosecutor if
11 requested by the prosecutor. The supreme court shall promulgate rules
12 setting forth the content of such advisement in simple language.

13 (~~((11))~~) (12) When a juvenile enters into a diversion agreement,
14 the juvenile court may receive only the following information for
15 dispositional purposes:

- 16 (a) The fact that a charge or charges were made;
- 17 (b) The fact that a diversion agreement was entered into;
- 18 (c) The juvenile's obligations under such agreement;
- 19 (d) Whether the alleged offender performed his or her obligations
20 under such agreement; and
- 21 (e) The facts of the alleged offense.

22 (~~((12))~~) (13) A (~~(diversionary)~~) diversion unit may refuse to enter
23 into a diversion agreement with a juvenile. When a (~~(diversionary)~~)
24 diversion unit refuses to enter a diversion agreement with a juvenile,
25 it shall immediately refer such juvenile to the court for action and
26 shall forward to the court the criminal complaint and a detailed
27 statement of its reasons for refusing to enter into a diversion
28 agreement. The (~~(diversionary)~~) diversion unit shall also immediately
29 refer the case to the prosecuting attorney for action if such juvenile
30 violates the terms of the diversion agreement.

31 (~~((13))~~) (14) A (~~(diversionary)~~) diversion unit may, in instances
32 where it determines that the act or omission of an act for which a
33 juvenile has been referred to it involved no victim, or where it
34 determines that the juvenile referred to it has no prior criminal
35 history and is alleged to have committed an illegal act involving no
36 threat of or instance of actual physical harm and involving not more
37 than fifty dollars in property loss or damage and that there is no loss
38 outstanding to the person or firm suffering such damage or loss,
39 counsel and release or release such a juvenile without entering into a

1 diversion agreement. A diversion unit's authority to counsel and
2 release a juvenile under this subsection (~~shall~~) includes the
3 authority to refer the juvenile to community-based counseling or
4 treatment programs. Any juvenile released under this subsection shall
5 be advised that the act or omission of any act for which he or she had
6 been referred shall constitute a part of the juvenile's criminal
7 history as defined by RCW 13.40.020(7). A signed acknowledgment of
8 such advisement shall be obtained from the juvenile, and the document
9 shall be maintained by the unit, and a copy of the document shall be
10 delivered to the prosecutor if requested by the prosecutor. The
11 supreme court shall promulgate rules setting forth the content of such
12 advisement in simple language. A juvenile determined to be eligible by
13 a (~~diversionary~~) diversion unit for release as provided in this
14 subsection shall retain the same right to counsel and right to have his
15 or her case referred to the court for formal action as any other
16 juvenile referred to the unit.

17 (~~(14)~~) (15) A diversion unit may supervise the fulfillment of a
18 diversion agreement entered into before the juvenile's eighteenth
19 birthday and which includes a period extending beyond the diverttee's
20 eighteenth birthday.

21 (~~(15)~~) (16) If a fine required by a diversion agreement cannot
22 reasonably be paid due to a change of circumstance, the diversion
23 agreement may be modified at the request of the diverttee and with the
24 concurrence of the diversion unit to convert an unpaid fine into
25 community service. The modification of the diversion agreement shall
26 be in writing and signed by the diverttee and the diversion unit. The
27 number of hours of community service in lieu of a monetary penalty
28 shall be converted at the rate of the prevailing state minimum wage per
29 hour.

30 (~~(16)~~) (17) Fines imposed under this section shall be collected
31 and paid into the county general fund in accordance with procedures
32 established by the juvenile court administrator under RCW 13.04.040 and
33 may be used only for juvenile services. In the expenditure of funds
34 for juvenile services, there shall be a maintenance of effort whereby
35 counties exhaust existing resources before using amounts collected
36 under this section.

37 NEW SECTION. Sec. 11. A new section is added to chapter 13.40 RCW
38 to read as follows:

1 Youth courts provide a diversion for cases involving juvenile
2 offenders, in which participants, under the supervision of an adult
3 coordinator, may serve in various capacities within the program, acting
4 in the role of jurors, lawyers, bailiffs, clerks, and judges. Youths
5 who appear before youth courts are youths eligible for diversion
6 pursuant to RCW 13.40.070 (6) and (7). Youth courts have no
7 jurisdiction except as provided for in this act. Youth courts are
8 diversion units and not courts established under Article IV of the
9 state Constitution.

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 13.40 RCW
11 to read as follows:

12 (1) The administrative office of the courts shall encourage the
13 juvenile courts to work with cities and counties to implement, expand,
14 or use youth court programs for juveniles who commit diversion-eligible
15 offenses, civil, or traffic infractions. Program operations of youth
16 court programs may be funded by government and private grants. Youth
17 court programs are limited to those that:

18 (a) Are developed using the guidelines for creating and operating
19 youth court programs developed by nationally recognized experts in
20 youth court projects;

21 (b) Target offenders age eight through seventeen; and

22 (c) Emphasize the following principles:

23 (i) Youth must be held accountable for their problem behavior;

24 (ii) Youth must be educated about the impact their actions have on
25 themselves and others including their victims, their families, and
26 their community;

27 (iii) Youth must develop skills to resolve problems with their
28 peers more effectively; and

29 (iv) Youth should be provided a meaningful forum to practice and
30 enhance newly developed skills.

31 (2) Youth court programs may be established by law enforcement
32 entities, municipal courts, district courts, juvenile probation
33 departments, private nonprofit organizations, and schools, under the
34 supervision of juvenile court.

35 NEW SECTION. **Sec. 13.** A new section is added to chapter 13.40 RCW
36 to read as follows:

1 (1) Youth courts have authority over juveniles ages eight through
2 seventeen who:

3 (a) Along with their parent, guardian, or legal custodian,
4 voluntarily and in writing request youth court involvement;

5 (b) Admit they have committed the offense they are referred for;

6 (c) Along with their parent, guardian, or legal custodian, waive
7 any privilege against self-incrimination concerning the offense; and

8 (d) Along with their parent, guardian, or legal custodian, agree to
9 comply with the youth court disposition of the case.

10 (2) Youth courts shall not exercise authority over youth who are
11 under the continuing jurisdiction of the juvenile court for law
12 violations, including a youth with a matter pending before the juvenile
13 court but which has not yet been adjudicated.

14 (3) Youth courts may decline to accept a youth for youth court
15 disposition for any reason and may terminate a youth from youth court
16 participation at any time.

17 (4) A youth or his or her parent, guardian, or legal custodian may
18 withdraw from the youth court process at any time.

19 (5) Youth courts shall give any victims of a juvenile the
20 opportunity to be notified, present, and heard in any youth court
21 proceeding.

22 NEW SECTION. Sec. 14. A new section is added to chapter 13.40 RCW
23 to read as follows:

24 Youth court may not notify the juvenile court of satisfaction of
25 conditions until all ordered restitution has been paid.

26 NEW SECTION. Sec. 15. A new section is added to chapter 13.40 RCW
27 to read as follows:

28 Every youth appearing before a youth court shall be accompanied by
29 his or her parent, guardian, or legal custodian.

30 NEW SECTION. Sec. 16. A new section is added to chapter 13.40 RCW
31 to read as follows:

32 (1) Youth court dispositional options include those delineated in
33 RCW 13.40.080, and may also include:

34 (a) Participating in law-related education classes, appropriate
35 counseling, treatment, or other education programs;

36 (b) Providing periodic reports to the youth court;

- 1 (c) Participating in mentoring programs;
- 2 (d) Serving as a participant in future youth court proceedings;
- 3 (e) Writing apology letters; or
- 4 (f) Writing essays.

5 (2) Youth courts shall not impose a term of confinement or
6 detention. Youth courts may require that the youth pay reasonable fees
7 to participate in youth court and in classes, counseling, treatment, or
8 other educational programs that are the disposition of the youth court.

9 (3) A youth court disposition shall be completed within one hundred
10 eighty days from the date of referral.

11 (4) Pursuant to RCW 13.40.080(1), a youth court disposition shall
12 be reduced to writing and signed by the youth and his or her parent,
13 guardian, or legal custodian accepting the disposition terms.

14 (5) Youth court shall notify the juvenile court upon successful or
15 unsuccessful completion of the disposition.

16 (6) Youth court shall notify the prosecutor or probation counselor
17 of a failure to successfully complete the youth court disposition.

18 NEW SECTION. **Sec. 17.** A new section is added to chapter 13.40 RCW
19 to read as follows:

20 A youth court may require that a youth pay a nonrefundable fee, not
21 exceeding thirty dollars, to cover the costs of administering the
22 program. The fee may be reduced or waived for a participant. Fees
23 shall be paid to and accounted for by the youth court.

24 NEW SECTION. **Sec. 18.** A new section is added to chapter 28A.300
25 RCW to read as follows:

26 The office of the superintendent of public instruction shall
27 encourage school districts to implement, expand, or use student court
28 programs for students who commit violations of school rules and
29 policies. Program operations of student courts may be funded by
30 government and private grants. Student court programs are limited to
31 those that:

32 (1) Are developed using the guidelines for creating and operating
33 student court programs developed by nationally recognized student court
34 projects;

35 (2) Target violations of school rules by students enrolled in
36 public or private school; and

37 (3) Emphasize the following principles:

- 1 (a) Youth must be held accountable for their problem behavior;
- 2 (b) Youth must be educated about the impact their actions have on
3 themselves and others including the school, school personnel, their
4 classmates, their families, and their community;
- 5 (c) Youth must develop skills to resolve problems with their peers
6 more effectively; and
- 7 (d) Youth should be provided a meaningful forum to practice and
8 enhance newly developed skills.

9 NEW SECTION. **Sec. 19.** A new section is added to chapter 28A.320
10 RCW to read as follows:

11 Local school boards may provide for school credit for participation
12 as a member of a youth court as defined in section 1 of this act or RCW
13 13.40.020 or a student court pursuant to section 18 of this act.

14 **Sec. 20.** RCW 13.40.250 and 1997 c 338 s 36 are each amended to
15 read as follows:

16 A traffic or civil infraction case involving a juvenile under the
17 age of sixteen may be diverted in accordance with the provisions of
18 this chapter or filed in juvenile court.

19 (1) If a notice of a traffic or civil infraction is filed in
20 juvenile court, the juvenile named in the notice shall be afforded the
21 same due process afforded to adult defendants in traffic infraction
22 cases.

23 (2) A monetary penalty imposed upon a juvenile under the age of
24 sixteen who is found to have committed a traffic or civil infraction
25 may not exceed one hundred dollars. At the juvenile's request, the
26 court may order performance of a number of hours of community service
27 in lieu of a monetary penalty, at the rate of the prevailing state
28 minimum wage per hour.

29 (3) A diversion agreement entered into by a juvenile referred
30 pursuant to this section shall be limited to thirty hours of community
31 service, or educational or informational sessions.

32 (4) Traffic or civil infractions referred to a youth court pursuant
33 to this section are subject to the conditions imposed by section 16 of
34 this act.

35 (5) If a case involving the commission of a traffic or civil
36 infraction or offense by a juvenile under the age of sixteen has been
37 referred to a diversion unit, an abstract of the action taken by the

1 diversion unit may be forwarded to the department of licensing in the
2 manner provided for in RCW 46.20.270(2).

3 **Sec. 21.** RCW 46.63.040 and 1984 c 258 s 137 are each amended to
4 read as follows:

5 (1) All violations of state law, local law, ordinance, regulation,
6 or resolution designated as traffic infractions in RCW 46.63.020 may be
7 heard and determined by a district court, except as otherwise provided
8 in this section.

9 (2) Any municipal court has the authority to hear and determine
10 traffic infractions pursuant to this chapter.

11 (3) Any city or town with a municipal court may contract with the
12 county to have traffic infractions committed within the city or town
13 adjudicated by a district court.

14 (4) District court commissioners have the authority to hear and
15 determine traffic infractions pursuant to this chapter.

16 (5) Any district or municipal court may refer juveniles age sixteen
17 or seventeen who are enrolled in school to a youth court, as defined in
18 section 1 of this act or RCW 13.40.020, for traffic infractions.

19 (6) The boards of regents of the state universities, and the boards
20 of trustees of the regional universities and of The Evergreen State
21 College have the authority to hear and determine traffic infractions
22 under RCW 28B.10.560.

23 NEW SECTION. **Sec. 22.** Sections 1 through 8 of this act constitute
24 a new chapter in Title 3 RCW."

25 **SB 5692** - S AMD 499
26 By Senators Hargrove, Costa and Long

27 ADOPTED 02/01/02

28 On page 1, line 2 of the title, after "violations;" strike the
29 remainder of the title and insert "amending RCW 13.40.020, 13.40.080,
30 13.40.250, and 46.63.040; adding new sections to chapter 13.40 RCW;
31 adding a new section to chapter 28A.300 RCW; adding a new section to
32 chapter 28A.320 RCW; and adding a new chapter to Title 3 RCW."

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