
SUBSTITUTE SENATE BILL 6240

State of Washington

62nd Legislature

2012 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Kline, Carrell, and Harper)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to orders of disposition for juveniles; and
2 amending RCW 13.40.127, 46.20.270, 9.41.040, 13.04.155, and 13.40.180.

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

4 **Sec. 1.** RCW 13.40.127 and 2009 c 236 s 1 are each amended to read
5 as follows:

6 (1) A juvenile is eligible for deferred disposition unless he or
7 she:

8 (a) Is charged with a sex or violent offense;

9 (b) Has a criminal history which includes any felony;

10 (c) Has a prior deferred disposition or deferred adjudication; or

11 (d) Has two or more adjudications.

12 (2) The juvenile court may, upon motion at least fourteen days
13 before commencement of trial and, after consulting the juvenile's
14 custodial parent or parents or guardian and with the consent of the
15 juvenile, continue the case for disposition for a period not to exceed
16 one year from the date the juvenile is found guilty. The court shall
17 consider whether the offender and the community will benefit from a
18 deferred disposition before deferring the disposition. The court may

1 waive the fourteen-day period anytime before the commencement of trial
2 for good cause.

3 (3) Any juvenile who agrees to a deferral of disposition shall:

4 (a) Stipulate to the admissibility of the facts contained in the
5 written police report;

6 (b) Acknowledge that the report will be entered and used to support
7 a finding of guilt and to impose a disposition if the juvenile fails to
8 comply with terms of supervision; (~~and~~)

9 (c) Waive the following rights to: (i) A speedy disposition; and
10 (ii) call and confront witnesses; and

11 (d) Acknowledge the direct consequences of being found guilty and
12 the direct consequences that will happen if an order of disposition is
13 entered.

14 The adjudicatory hearing shall be limited to a reading of the
15 court's record.

16 (4) Following the stipulation, acknowledgment, waiver, and entry of
17 a finding or plea of guilt, the court shall defer entry of an order of
18 disposition of the juvenile.

19 (5) Any juvenile granted a deferral of disposition under this
20 section shall be placed under community supervision. The court may
21 impose any conditions of supervision that it deems appropriate
22 including posting a probation bond. Payment of restitution under RCW
23 13.40.190 shall be a condition of community supervision under this
24 section.

25 The court may require a juvenile offender convicted of animal
26 cruelty in the first degree to submit to a mental health evaluation to
27 determine if the offender would benefit from treatment and such
28 intervention would promote the safety of the community. After
29 consideration of the results of the evaluation, as a condition of
30 community supervision, the court may order the offender to attend
31 treatment to address issues pertinent to the offense.

32 (6) A parent who signed for a probation bond has the right to
33 notify the counselor if the juvenile fails to comply with the bond or
34 conditions of supervision. The counselor shall notify the court and
35 surety of any failure to comply. A surety shall notify the court of
36 the juvenile's failure to comply with the probation bond. The state
37 shall bear the burden to prove, by a preponderance of the evidence,

1 that the juvenile has failed to comply with the terms of community
2 supervision.

3 ~~(7) ((A juvenile's lack of compliance shall be determined by the~~
4 ~~judge upon written motion by the prosecutor or the juvenile's juvenile~~
5 ~~court community supervision counselor. If a juvenile fails to comply~~
6 ~~with terms of supervision, the court shall enter an order of~~
7 ~~disposition))~~ (a) Anytime prior to the conclusion of the period of
8 supervision, the prosecutor or the juvenile's juvenile court community
9 supervision counselor may file a motion with the court requesting the
10 court revoke the deferred disposition based on the juvenile's lack of
11 compliance or treat the juvenile's lack of compliance as a violation
12 pursuant to RCW 13.40.200.

13 (b) If the court finds the juvenile failed to comply with the terms
14 of the deferred disposition, the court may:

15 (i) Revoke the deferred disposition and enter an order of
16 disposition; or

17 (ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

18 (8) At any time following deferral of disposition the court may,
19 following a hearing, continue ~~((the case))~~ supervision for an
20 additional one-year period for good cause.

21 (9)(a) At the conclusion of the period ((set forth in the order of
22 deferral and upon a finding by the court of full compliance with
23 conditions of supervision and payment of full restitution)) of
24 supervision, the court shall determine whether the juvenile is entitled
25 to dismissal of the deferred disposition only when the court finds:

26 (i) The deferred disposition has not been previously revoked;

27 (ii) The juvenile has completed the terms of supervision;

28 (iii) There are no pending motions concerning lack of compliance
29 pursuant to subsection (7) of this section; and

30 (iv) The juvenile has either paid the full amount of restitution,
31 or, made a good faith effort to pay the full amount of restitution
32 during the period of supervision.

33 (b) If the court finds the juvenile is entitled to dismissal of the
34 deferred disposition pursuant to (a) of this subsection, the
35 ((respondent's)) juvenile's conviction shall be vacated and the court
36 shall dismiss the case with prejudice, except that a conviction under
37 RCW 16.52.205 shall not be vacated. Whenever a case is dismissed with
38 restitution still owing, the court shall enter a restitution order

1 pursuant to RCW 13.40.190 for any unpaid restitution. Jurisdiction to
2 enforce payment and modify terms of the restitution order shall be the
3 same as those set forth in RCW 13.40.190.

4 (c) If the court finds the juvenile is not entitled to dismissal of
5 the deferred disposition pursuant to (a) of this subsection, the court
6 shall revoke the deferred disposition and enter an order of
7 disposition. A deferred disposition shall remain a conviction unless
8 the case is dismissed and the conviction is vacated pursuant to (b) of
9 this subsection or sealed pursuant to RCW 13.50.050.

10 (10)(a) Records of deferred disposition cases vacated under
11 subsection (9) of this section shall be sealed no later than thirty
12 days after the juvenile's eighteenth birthday, or, if the juvenile has
13 already reached the age of eighteen at the time the case is vacated, no
14 later than thirty days after the case is vacated, provided that the
15 juvenile does not have any charges pending at that time and the full
16 amount of restitution ordered has been paid. If a juvenile has already
17 reached his or her eighteenth birthday before July 26, 2009, and does
18 not have any charges pending, he or she may request that the court
19 issue an order sealing the records of his or her deferred disposition
20 cases vacated under subsection (9) of this section, and this request
21 shall be granted provided the full amount of restitution ordered has
22 been paid. Nothing in this subsection shall preclude a juvenile from
23 petitioning the court to have the records of his or her deferred
24 dispositions sealed under RCW 13.50.050 (11) and (12).

25 (b) Records sealed under this provision shall have the same legal
26 status as records sealed under RCW 13.50.050.

27 **Sec. 2.** RCW 46.20.270 and 2010 c 249 s 11 are each amended to read
28 as follows:

29 (1) Whenever any person is convicted of any offense for which this
30 title makes mandatory the withholding of the driving privilege of such
31 person by the department, the court in which such conviction is had
32 shall forthwith mark the person's Washington state driver's license or
33 permit to drive, if any, in a manner authorized by the department. A
34 valid driver's license or permit to drive marked under this subsection
35 shall remain in effect until the person's driving privilege is withheld
36 by the department pursuant to notice given under RCW 46.20.245, unless
37 the license or permit expires or otherwise becomes invalid prior to the

1 effective date of this action. Perfection of notice of appeal shall
2 stay the execution of sentence including the withholding of the driving
3 privilege.

4 (2) Every court having jurisdiction over offenses committed under
5 this chapter, or any other act of this state or municipal ordinance
6 adopted by a local authority regulating the operation of motor vehicles
7 on highways, or any federal authority having jurisdiction over offenses
8 substantially the same as those set forth in this title which occur on
9 federal installations within this state, shall immediately forward to
10 the department a forfeiture of bail or collateral deposited to secure
11 the defendant's appearance in court, a payment of a fine, penalty, or
12 court cost, a plea of guilty or nolo contendere or a finding of guilt,
13 or a finding that any person has committed a traffic infraction an
14 abstract of the court record in the form prescribed by rule of the
15 supreme court, showing the conviction of any person or the finding that
16 any person has committed a traffic infraction in said court for a
17 violation of any said laws other than regulations governing standing,
18 stopping, parking, and pedestrian offenses.

19 (3) Every state agency or municipality having jurisdiction over
20 offenses committed under this chapter, or under any other act of this
21 state or municipal ordinance adopted by a state or local authority
22 regulating the operation of motor vehicles on highways, may forward to
23 the department within ten days of failure to respond, failure to pay a
24 penalty, failure to appear at a hearing to contest the determination
25 that a violation of any statute, ordinance, or regulation relating to
26 standing, stopping, parking, or civil penalties issued under RCW
27 46.63.160 has been committed, or failure to appear at a hearing to
28 explain mitigating circumstances, an abstract of the citation record in
29 the form prescribed by rule of the department, showing the finding by
30 such municipality that two or more violations of laws governing
31 standing, stopping, and parking or one or more civil penalties issued
32 under RCW 46.63.160 have been committed and indicating the nature of
33 the defendant's failure to act. Such violations or infractions may not
34 have occurred while the vehicle is stolen from the registered owner or
35 is leased or rented under a bona fide commercial vehicle lease or
36 rental agreement between a lessor engaged in the business of leasing
37 vehicles and a lessee who is not the vehicle's registered owner. The

1 department may enter into agreements of reciprocity with the duly
2 authorized representatives of the states for reporting to each other
3 violations of laws governing standing, stopping, and parking.

4 (4) For the purposes of this title and except as defined in RCW
5 46.25.010, "conviction" means a final conviction or juvenile
6 adjudication in a state or municipal court or by any federal authority
7 having jurisdiction over offenses substantially the same as those set
8 forth in this title which occur on federal installations in this state,
9 an unvacated forfeiture of bail or collateral deposited to secure a
10 defendant's appearance in court, the payment of a fine or court cost,
11 a plea of guilty or nolo contendere, or a finding of guilt on a traffic
12 law violation charge, regardless of whether the imposition of sentence
13 or sanctions are deferred or the penalty is suspended, but not
14 including entry into a deferred prosecution agreement under chapter
15 10.05 RCW.

16 (5) For the purposes of this title, "finding that a traffic
17 infraction has been committed" means a failure to respond to a notice
18 of infraction or a determination made by a court pursuant to this
19 chapter. Payment of a monetary penalty made pursuant to RCW
20 46.63.070(2) is deemed equivalent to such a finding.

21 **Sec. 3.** RCW 9.41.040 and 2011 c 193 s 1 are each amended to read
22 as follows:

23 (1)(a) A person, whether an adult or juvenile, is guilty of the
24 crime of unlawful possession of a firearm in the first degree, if the
25 person owns, has in his or her possession, or has in his or her control
26 any firearm after having previously been convicted or found not guilty
27 by reason of insanity in this state or elsewhere of any serious offense
28 as defined in this chapter.

29 (b) Unlawful possession of a firearm in the first degree is a class
30 B felony punishable according to chapter 9A.20 RCW.

31 (2)(a) A person, whether an adult or juvenile, is guilty of the
32 crime of unlawful possession of a firearm in the second degree, if the
33 person does not qualify under subsection (1) of this section for the
34 crime of unlawful possession of a firearm in the first degree and the
35 person owns, has in his or her possession, or has in his or her control
36 any firearm:

1 (i) After having previously been convicted or found not guilty by
2 reason of insanity in this state or elsewhere of any felony not
3 specifically listed as prohibiting firearm possession under subsection
4 (1) of this section, or any of the following crimes when committed by
5 one family or household member against another, committed on or after
6 July 1, 1993: Assault in the fourth degree, coercion, stalking,
7 reckless endangerment, criminal trespass in the first degree, or
8 violation of the provisions of a protection order or no-contact order
9 restraining the person or excluding the person from a residence (RCW
10 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

11 (ii) After having previously been involuntarily committed for
12 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
13 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
14 jurisdiction, unless his or her right to possess a firearm has been
15 restored as provided in RCW 9.41.047;

16 (iii) If the person is under eighteen years of age, except as
17 provided in RCW 9.41.042; and/or

18 (iv) If the person is free on bond or personal recognizance pending
19 trial, appeal, or sentencing for a serious offense as defined in RCW
20 9.41.010.

21 (b) Unlawful possession of a firearm in the second degree is a
22 class C felony punishable according to chapter 9A.20 RCW.

23 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as
24 used in this chapter, a person has been "convicted", whether in an
25 adult court or adjudicated in a juvenile court, at such time as a plea
26 of guilty has been accepted, or a verdict of guilty has been filed,
27 notwithstanding the pendency of any future proceedings including but
28 not limited to sentencing or disposition, post-trial or post-
29 factfinding motions, and appeals. Conviction includes a dismissal
30 entered after a deferred position pursuant to RCW 13.40.127, period of
31 probation, suspension or deferral of sentence, and also includes
32 equivalent dispositions by courts in jurisdictions other than
33 Washington state. A person shall not be precluded from possession of
34 a firearm if the conviction has been the subject of a pardon,
35 annulment, certificate of rehabilitation, or other equivalent procedure
36 based on a finding of the rehabilitation of the person convicted or the
37 conviction or disposition has been the subject of a pardon, annulment,
38 or other equivalent procedure based on a finding of innocence. Where

1 no record of the court's disposition of the charges can be found, there
2 shall be a rebuttable presumption that the person was not convicted of
3 the charge.

4 (4)(a) Notwithstanding subsection (1) or (2) of this section, a
5 person convicted or found not guilty by reason of insanity of an
6 offense prohibiting the possession of a firearm under this section
7 other than murder, manslaughter, robbery, rape, indecent liberties,
8 arson, assault, kidnapping, extortion, burglary, or violations with
9 respect to controlled substances under RCW 69.50.401 and 69.50.410, who
10 received a probationary sentence under RCW 9.95.200, and who received
11 a dismissal of the charge under RCW 9.95.240, shall not be precluded
12 from possession of a firearm as a result of the conviction or finding
13 of not guilty by reason of insanity. Notwithstanding any other
14 provisions of this section, if a person is prohibited from possession
15 of a firearm under subsection (1) or (2) of this section and has not
16 previously been convicted or found not guilty by reason of insanity of
17 a sex offense prohibiting firearm ownership under subsection (1) or (2)
18 of this section and/or any felony defined under any law as a class A
19 felony or with a maximum sentence of at least twenty years, or both,
20 the individual may petition a court of record to have his or her right
21 to possess a firearm restored:

22 (i) Under RCW 9.41.047; and/or

23 (ii)(A) If the conviction or finding of not guilty by reason of
24 insanity was for a felony offense, after five or more consecutive years
25 in the community without being convicted or found not guilty by reason
26 of insanity or currently charged with any felony, gross misdemeanor, or
27 misdemeanor crimes, if the individual has no prior felony convictions
28 that prohibit the possession of a firearm counted as part of the
29 offender score under RCW 9.94A.525; or

30 (B) If the conviction or finding of not guilty by reason of
31 insanity was for a nonfelony offense, after three or more consecutive
32 years in the community without being convicted or found not guilty by
33 reason of insanity or currently charged with any felony, gross
34 misdemeanor, or misdemeanor crimes, if the individual has no prior
35 felony convictions that prohibit the possession of a firearm counted as
36 part of the offender score under RCW 9.94A.525 and the individual has
37 completed all conditions of the sentence.

1 (b) An individual may petition a court of record to have his or her
2 right to possess a firearm restored under (a) of this subsection (4)
3 only at:

4 (i) The court of record that ordered the petitioner's prohibition
5 on possession of a firearm; or

6 (ii) The superior court in the county in which the petitioner
7 resides.

8 (5) In addition to any other penalty provided for by law, if a
9 person under the age of eighteen years is found by a court to have
10 possessed a firearm in a vehicle in violation of subsection (1) or (2)
11 of this section or to have committed an offense while armed with a
12 firearm during which offense a motor vehicle served an integral
13 function, the court shall notify the department of licensing within
14 twenty-four hours and the person's privilege to drive shall be revoked
15 under RCW 46.20.265.

16 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or
17 interpreted as preventing an offender from being charged and
18 subsequently convicted for the separate felony crimes of theft of a
19 firearm or possession of a stolen firearm, or both, in addition to
20 being charged and subsequently convicted under this section for
21 unlawful possession of a firearm in the first or second degree.
22 Notwithstanding any other law, if the offender is convicted under this
23 section for unlawful possession of a firearm in the first or second
24 degree and for the felony crimes of theft of a firearm or possession of
25 a stolen firearm, or both, then the offender shall serve consecutive
26 sentences for each of the felony crimes of conviction listed in this
27 subsection.

28 (7) Each firearm unlawfully possessed under this section shall be
29 a separate offense.

30 **Sec. 4.** RCW 13.04.155 and 2000 c 27 s 1 are each amended to read
31 as follows:

32 (1) Whenever a minor enrolled in any common school is convicted in
33 adult criminal court, (~~(or)~~) adjudicated, found guilty pursuant to RCW
34 13.40.127, or entered into a diversion agreement with the juvenile
35 court on any of the following offenses, the court must notify the
36 principal of the student's school of the disposition of the case, after

1 first notifying the parent or legal guardian that such notification
2 will be made:

- 3 (a) A violent offense as defined in RCW 9.94A.030;
- 4 (b) A sex offense as defined in RCW 9.94A.030;
- 5 (c) Inhaling toxic fumes under chapter 9.47A RCW;
- 6 (d) A controlled substances violation under chapter 69.50 RCW;
- 7 (e) A liquor violation under RCW 66.44.270; and
- 8 (f) Any crime under chapters 9.41, 9A.36, 9A.40, 9A.46, and 9A.48
9 RCW.

10 (2) The principal must provide the information received under
11 subsection (1) of this section to every teacher of any student who
12 qualifies under subsection (1) of this section and any other personnel
13 who, in the judgment of the principal, supervises the student or for
14 security purposes should be aware of the student's record. The
15 principal must provide the information to teachers and other personnel
16 based on any written records that the principal maintains or receives
17 from a juvenile court administrator or a law enforcement agency
18 regarding the student.

19 (3) Any information received by a principal or school personnel
20 under this section is confidential and may not be further disseminated
21 except as provided in RCW 28A.225.330, other statutes or case law, and
22 the family and educational and privacy rights act of 1994, 20 U.S.C.
23 Sec. 1232g et seq.

24 **Sec. 5.** RCW 13.40.180 and 2002 c 175 s 24 are each amended to read
25 as follows:

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

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

34 ~~((+2))~~ (b) The aggregate of all consecutive terms shall not exceed
35 three hundred percent of the term imposed for the most serious offense;
36 and

1 (~~(3)~~) (c) The aggregate of all consecutive terms of community
2 supervision shall not exceed two years in length, or require payment of
3 more than two hundred dollars in fines or the performance of more than
4 two hundred hours of community restitution.

5 (2) Where disposition in separate disposition orders is imposed on
6 a youth, the periods of community supervision contained in separate
7 orders, if any, shall run concurrently. All other terms contained in
8 separate disposition orders shall run consecutively.

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