
ENGROSSED SENATE BILL 5692

State of Washington

57th Legislature

2001 Regular Session

By Senators Costa, Long, Hargrove, Rasmussen and Kohl-Welles

Read first time 01/31/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to authorizing the participation of youth as
2 decision makers in dispositions of minor offenses and rules violations;
3 amending RCW 13.40.020, 13.40.080, 13.40.250, and 46.63.040; adding new
4 sections to chapter 13.40 RCW; adding a new section to chapter 28A.300
5 RCW; adding a new section to chapter 28A.320 RCW; and adding a new
6 chapter to Title 3 RCW.

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

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

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

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

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

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

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

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

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

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

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

15 NEW SECTION. **Sec. 3.** (1) A youth court agreement shall be a
16 contract between a juvenile accused of a traffic infraction and a youth
17 court whereby the juvenile agrees to fulfill certain conditions in lieu
18 of a determination that a traffic infraction occurred. Such agreements
19 may be entered into only after the law enforcement authority has
20 determined that probable cause exists to believe that a traffic
21 infraction has been committed and that the juvenile committed it. A
22 youth court agreement shall be reduced to writing and signed by the
23 youth and his or her parent, guardian, or legal custodian accepting the
24 terms of the agreement. Such agreements shall be entered into as
25 expeditiously as possible.

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

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

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

32 (c) Attendance at up to ten hours of counseling and/or up to twenty
33 hours of educational or informational sessions at a community agency.
34 The educational or informational sessions may include sessions relating
35 to respect for self, others, and authority; victim awareness;
36 accountability; self-worth; responsibility; work ethics; good
37 citizenship; literacy; and life skills. For purposes of this section,
38 "community agency" includes a community-based nonprofit organization,

1 if approved by the youth court. The state shall not be liable for
2 costs resulting from the youth court exercising the option to permit an
3 agreement to mandate attendance at up to ten hours of counseling and/or
4 up to twenty hours of educational or informational sessions;

5 (d) A monetary penalty, not to exceed one hundred dollars. In
6 determining the amount of the monetary penalty, the youth court shall
7 consider only the juvenile's financial resources and whether the
8 juvenile has the means to pay the monetary penalty. The youth court
9 shall not consider the financial resources of the juvenile's parents,
10 guardian, or custodian in determining the monetary penalty to be
11 imposed;

12 (e) Requirements to remain during specified hours at home, school,
13 or work, and restrictions on leaving or entering specified geographical
14 areas;

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

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

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

21 (i) Participating in mentoring programs;

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

23 (k) Writing apology letters; or

24 (l) Writing essays.

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

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

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

34 (4) In assessing periods of community service to be performed and
35 restitution to be paid by a juvenile who has entered into a youth court
36 agreement, the court officer to whom this task is assigned shall
37 consult with the juvenile's custodial parent or parents or guardian and
38 victims who have contacted the youth court and, to the extent possible,
39 involve members of the community. Such members of the community shall

1 meet with the juvenile and advise the court officer as to the terms of
2 the youth court agreement and shall supervise the juvenile in carrying
3 out its terms.

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

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

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

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

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

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

1 (b) Violation of the terms of the agreement shall be the only
2 grounds for termination;

3 (c) No juvenile may be terminated from a youth court program
4 without being given a court hearing, which hearing shall be preceded
5 by:

6 (i) Written notice of alleged violations of the conditions of the
7 youth court program; and

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

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

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

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

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

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

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

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

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

23 (11) The right to counsel shall inure prior to the initial
24 interview for purposes of advising the juvenile as to whether he or she
25 desires to participate in the youth court process or to appear in the
26 court. The juvenile may be represented by counsel at any critical
27 stage of the process, including intake interviews and termination
28 hearings. The juvenile shall be fully advised at the intake interview
29 of his or her right to an attorney and of the relevant services an
30 attorney can provide. For the purpose of this section, intake
31 interviews mean all interviews regarding the youth court agreement
32 process.

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

35 (a) The fact that a traffic infraction was alleged to have been
36 committed;

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

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

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

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

4 (13) A youth court may refuse to enter into a youth court agreement
5 with a juvenile. When a youth court refuses to enter a youth court
6 agreement with a juvenile, it shall immediately refer such juvenile to
7 the court for action and shall forward to the court the criminal
8 complaint and a detailed statement of its reasons for refusing to enter
9 into a youth court agreement. The youth court shall also immediately
10 refer the case to the prosecuting attorney for action if such juvenile
11 violates the terms of the youth court agreement.

12 (14) A youth court may, in instances where it determines that the
13 act or omission of an act for which a juvenile has been referred to it
14 involved no victim, or where it determines that the juvenile referred
15 to it has no prior criminal history and is alleged to have committed a
16 traffic infraction involving no threat of or instance of actual
17 physical harm and involving not more than fifty dollars in property
18 loss or damage and that there is no loss outstanding to the person or
19 firm suffering such damage or loss, counsel and release or release such
20 a juvenile without entering into a youth court agreement. A youth
21 court's authority to counsel and release a juvenile under this
22 subsection includes the authority to refer the juvenile to community-
23 based counseling or treatment programs. A juvenile determined to be
24 eligible by a youth court for release as provided in this subsection
25 shall retain the same right to counsel and right to have his or her
26 case referred to the court for formal action as any other juvenile
27 referred to the youth court.

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

32 (16) If a monetary penalty required by a youth court agreement
33 cannot reasonably be paid due to a change of circumstance, the youth
34 court agreement may be modified at the request of the juvenile and with
35 the concurrence of the youth court to convert an unpaid monetary
36 penalty into community service. The modification of the youth court
37 agreement shall be in writing and signed by the juvenile and the youth
38 court. The number of hours of community service in lieu of a monetary

1 penalty shall be converted at the rate of the prevailing state minimum
2 wage per hour.

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

9 NEW SECTION. **Sec. 4.** Youth courts provide a disposition method
10 for cases involving juveniles alleged to have committed traffic
11 infractions, in which participants, under the supervision of an adult
12 coordinator, may serve in various capacities within the program, acting
13 in the role of jurors, lawyers, bailiffs, clerks, and judges. Youth
14 courts have no jurisdiction except as provided for in this chapter.
15 Youth courts are not courts established under Article IV of the state
16 Constitution.

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

23 (a) Are developed using the guidelines for creating and operating
24 youth court programs developed by nationally recognized experts in
25 youth court projects;

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

28 (c) Emphasize the following principles:

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

30 (ii) Youth must be educated about the impact their actions have on
31 themselves and others including their victims, their families, and
32 their community;

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

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

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

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

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

9 (b) Admit they have committed the traffic infraction they are
10 referred for;

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

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

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

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

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

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

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

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

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

34 For the purposes of this chapter:

1 (1) "Community-based rehabilitation" means one or more of the
2 following: Employment; attendance of information classes; literacy
3 classes; counseling, outpatient substance abuse treatment programs,
4 outpatient mental health programs, anger management classes, education
5 or outpatient treatment programs to prevent animal cruelty, or other
6 services; or attendance at school or other educational programs
7 appropriate for the juvenile as determined by the school district.
8 Placement in community-based rehabilitation programs is subject to
9 available funds;

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

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

13 (b) Community service not to exceed one hundred fifty hours of
14 service;

15 (3) "Community service" means compulsory service, without
16 compensation, performed for the benefit of the community by the
17 offender as punishment for committing an offense. Community service
18 may be performed through public or private organizations or through
19 work crews;

20 (4) "Community supervision" means an order of disposition by the
21 court of an adjudicated youth not committed to the department or an
22 order granting a deferred disposition. A community supervision order
23 for a single offense may be for a period of up to two years for a sex
24 offense as defined by RCW 9.94A.030 and up to one year for other
25 offenses. As a mandatory condition of any term of community
26 supervision, the court shall order the juvenile to refrain from
27 committing new offenses. As a mandatory condition of community
28 supervision, the court shall order the juvenile to comply with the
29 mandatory school attendance provisions of chapter 28A.225 RCW and to
30 inform the school of the existence of this requirement. Community
31 supervision is an individualized program comprised of one or more of
32 the following:

33 (a) Community-based sanctions;

34 (b) Community-based rehabilitation;

35 (c) Monitoring and reporting requirements;

36 (d) Posting of a probation bond;

37 (5) "Confinement" means physical custody by the department of
38 social and health services in a facility operated by or pursuant to a
39 contract with the state, or physical custody in a detention facility

1 operated by or pursuant to a contract with any county. The county may
2 operate or contract with vendors to operate county detention
3 facilities. The department may operate or contract to operate
4 detention facilities for juveniles committed to the department.
5 Pretrial confinement or confinement of less than thirty-one days
6 imposed as part of a disposition or modification order may be served
7 consecutively or intermittently, in the discretion of the court;

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

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

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

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

23 (8) "Department" means the department of social and health
24 services;

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

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

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

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

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

15 (13) "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 (14) "Juvenile," "youth," and "child" mean any individual who is
21 under the chronological age of eighteen years and who has not been
22 previously transferred to adult court pursuant to RCW 13.40.110 or who
23 is otherwise under adult court jurisdiction;

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

28 (16) "Local sanctions" means one or more of the following: (a)
29 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
30 0-150 hours of community service; or (d) \$0-\$500 fine;

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

34 (18) "Monitoring and reporting requirements" means one or more of
35 the following: Curfews; requirements to remain at home, school, work,
36 or court-ordered treatment programs during specified hours;
37 restrictions from leaving or entering specified geographical areas;
38 requirements to report to the probation officer as directed and to
39 remain under the probation officer's supervision; and other conditions

1 or limitations as the court may require which may not include
2 confinement;

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

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

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

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

26 (23) "Secretary" means the secretary of the department of social
27 and health services. "Assistant secretary" means the assistant
28 secretary for juvenile rehabilitation for the department;

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

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

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

38 (27) "Surety" means an entity licensed under state insurance laws
39 or by the state department of licensing, to write corporate, property,

1 or probation bonds within the state, and justified and approved by the
2 superior court of the county having jurisdiction of the case;

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

6 (29) "Violent offense" means a violent offense as defined in RCW
7 9.94A.030.

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

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

12 (1) A diversion agreement shall be a contract between a juvenile
13 accused of an offense and a (~~diversionary~~) diversion unit whereby the
14 juvenile agrees to fulfill certain conditions in lieu of prosecution.
15 Such agreements may be entered into only after the prosecutor, or
16 probation counselor pursuant to this chapter, has determined that
17 probable cause exists to believe that a crime has been committed and
18 that the juvenile committed it. Such agreements shall be entered into
19 as expeditiously as possible.

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

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

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

26 (c) Attendance at up to ten hours of counseling and/or up to twenty
27 hours of educational or informational sessions at a community agency.
28 The educational or informational sessions may include sessions relating
29 to respect for self, others, and authority; victim awareness;
30 accountability; self-worth; responsibility; work ethics; good
31 citizenship; literacy; and life skills. For purposes of this section,
32 "community agency" may also mean a community-based nonprofit
33 organization, if approved by the diversion unit. The state shall not
34 be liable for costs resulting from the (~~diversionary~~) diversion unit
35 exercising the option to permit diversion agreements to mandate
36 attendance at up to ten hours of counseling and/or up to twenty hours
37 of educational or informational sessions;

1 (d) A fine, not to exceed one hundred dollars. In determining the
2 amount of the fine, the diversion unit shall consider only the
3 juvenile's financial resources and whether the juvenile has the means
4 to pay the fine. The diversion unit shall not consider the financial
5 resources of the juvenile's parents, guardian, or custodian in
6 determining the fine to be imposed;

7 (e) Requirements to remain during specified hours at home, school,
8 or work, and restrictions on leaving or entering specified geographical
9 areas; and

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

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

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 diversion
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 ~~((diversionary))~~ diversion unit and, to
22 the extent possible, involve members of the community. Such members of
23 the community shall meet with the juvenile and advise the court officer
24 as to the terms of the diversion agreement and shall supervise the
25 juvenile in carrying out its terms.

26 ~~((+4))~~ (5)(a) A diversion agreement may not exceed a period of six
27 months and may include a period extending beyond the eighteenth
28 birthday of the divertee.

29 (b) If additional time is necessary for the juvenile to complete
30 restitution to ~~((the))~~ a victim, the time period limitations of this
31 subsection 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 juvenile court for entry of an order establishing the
35 amount of restitution still owed to the victim. In this order, the
36 court shall also determine the terms and conditions of the restitution,
37 including a payment plan extending up to ten years if the court
38 determines that the juvenile does not have the means to make full
39 restitution over a shorter period. For the purposes of this subsection

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

15 (~~(5)~~) (6) The juvenile shall retain the right to be referred to
16 the court at any time prior to the signing of the diversion agreement.

17 (~~(6)~~) (7) Divertees and potential divertees shall be afforded due
18 process in all contacts with a (~~diversionary~~) diversion unit
19 regardless of whether the juveniles are accepted for diversion or
20 whether the diversion program is successfully completed. Such due
21 process shall include, but not be limited to, the following:

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

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

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

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

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

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

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

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

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

37 (iv) Demonstration by evidence that the diverttee has substantially
38 violated the terms of his or her diversion agreement.

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

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

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

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

11 ~~((+8))~~ (9) The diversion unit shall be responsible for advising a
12 divertee of his or her rights as provided in this chapter.

13 ~~((+9))~~ (10) The diversion unit may refer a juvenile to community-
14 based counseling or treatment programs.

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

25 The juvenile shall be advised that a diversion agreement shall
26 constitute a part of the juvenile's criminal history as defined by RCW
27 13.40.020(7). A signed acknowledgment of such advisement shall be
28 obtained from the juvenile, and the document shall be maintained by the
29 ~~((diversionary))~~ diversion unit together with the diversion agreement,
30 and a copy of both documents shall be delivered to the prosecutor if
31 requested by the prosecutor. The supreme court shall promulgate rules
32 setting forth the content of such advisement in simple language.

33 ~~((+11))~~ (12) When a juvenile enters into a diversion agreement,
34 the juvenile court may receive only the following information for
35 dispositional purposes:

36 (a) The fact that a charge or charges were made;

37 (b) The fact that a diversion agreement was entered into;

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

1 (d) Whether the alleged offender performed his or her obligations
2 under such agreement; and

3 (e) The facts of the alleged offense.

4 (~~(12)~~) (13) A (~~diversionary~~) diversion unit may refuse to enter
5 into a diversion agreement with a juvenile. When a (~~diversionary~~)
6 diversion unit refuses to enter a diversion agreement with a juvenile,
7 it shall immediately refer such juvenile to the court for action and
8 shall forward to the court the criminal complaint and a detailed
9 statement of its reasons for refusing to enter into a diversion
10 agreement. The (~~diversionary~~) diversion unit shall also immediately
11 refer the case to the prosecuting attorney for action if such juvenile
12 violates the terms of the diversion agreement.

13 (~~(13)~~) (14) A (~~diversionary~~) diversion unit may, in instances
14 where it determines that the act or omission of an act for which a
15 juvenile has been referred to it involved no victim, or where it
16 determines that the juvenile referred to it has no prior criminal
17 history and is alleged to have committed an illegal act involving no
18 threat of or instance of actual physical harm and involving not more
19 than fifty dollars in property loss or damage and that there is no loss
20 outstanding to the person or firm suffering such damage or loss,
21 counsel and release or release such a juvenile without entering into a
22 diversion agreement. A diversion unit's authority to counsel and
23 release a juvenile under this subsection (~~shall~~) includes the
24 authority to refer the juvenile to community-based counseling or
25 treatment programs. Any juvenile released under this subsection shall
26 be advised that the act or omission of any act for which he or she had
27 been referred shall constitute a part of the juvenile's criminal
28 history as defined by RCW 13.40.020(7). A signed acknowledgment of
29 such advisement shall be obtained from the juvenile, and the document
30 shall be maintained by the unit, and a copy of the document shall be
31 delivered to the prosecutor if requested by the prosecutor. The
32 supreme court shall promulgate rules setting forth the content of such
33 advisement in simple language. A juvenile determined to be eligible by
34 a (~~diversionary~~) diversion unit for release as provided in this
35 subsection shall retain the same right to counsel and right to have his
36 or her case referred to the court for formal action as any other
37 juvenile referred to the unit.

38 (~~(14)~~) (15) A diversion unit may supervise the fulfillment of a
39 diversion agreement entered into before the juvenile's eighteenth

1 birthday and which includes a period extending beyond the divertee's
2 eighteenth birthday.

3 ~~((15))~~ (16) If a fine required by a diversion agreement cannot
4 reasonably be paid due to a change of circumstance, the diversion
5 agreement may be modified at the request of the divertee and with the
6 concurrence of the diversion unit to convert an unpaid fine into
7 community service. The modification of the diversion agreement shall
8 be in writing and signed by the divertee and the diversion unit. The
9 number of hours of community service in lieu of a monetary penalty
10 shall be converted at the rate of the prevailing state minimum wage per
11 hour.

12 ~~((16))~~ (17) Fines imposed under this section shall be collected
13 and paid into the county general fund in accordance with procedures
14 established by the juvenile court administrator under RCW 13.04.040 and
15 may be used only for juvenile services. In the expenditure of funds
16 for juvenile services, there shall be a maintenance of effort whereby
17 counties exhaust existing resources before using amounts collected
18 under this section.

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

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

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

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

1 (a) Are developed using the guidelines for creating and operating
2 youth court programs developed by nationally recognized experts in
3 youth court projects;

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

5 (c) Emphasize the following principles:

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

7 (ii) Youth must be educated about the impact their actions have on
8 themselves and others including their victims, their families, and
9 their community;

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

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

14 (2) Youth court programs may be established by law enforcement
15 entities, municipal courts, district courts, juvenile probation
16 departments, private nonprofit organizations, and schools, under the
17 supervision of juvenile court.

18 NEW SECTION. Sec. 13. A new section is added to chapter 13.40 RCW
19 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

8 NEW SECTION. **Sec. 15.** A new section is added to chapter 13.40 RCW
9 to read as follows:

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

12 NEW SECTION. **Sec. 16.** A new section is added to chapter 13.40 RCW
13 to read as follows:

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

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

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

19 (c) Participating in mentoring programs;

20 (d) Serving as a participant in future youth court proceedings;

21 (e) Writing apology letters; or

22 (f) Writing essays.

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

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

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

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

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

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

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

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

9 The office of the superintendent of public instruction shall
10 encourage school districts to implement, expand, or use student court
11 programs for students who commit violations of school rules and
12 policies. Program operations of student courts may be funded by
13 government and private grants. Student court programs are limited to
14 those that:

15 (1) Are developed using the guidelines for creating and operating
16 student court programs developed by nationally recognized student court
17 projects;

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

20 (3) Emphasize the following principles:

21 (a) Youth must be held accountable for their problem behavior;

22 (b) Youth must be educated about the impact their actions have on
23 themselves and others including the school, school personnel, their
24 classmates, their families, and their community;

25 (c) Youth must develop skills to resolve problems with their peers
26 more effectively; and

27 (d) Youth should be provided a meaningful forum to practice and
28 enhance newly developed skills.

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

31 Local school boards may provide for school credit for participation
32 as a member of a youth court as defined in section 1 of this act or RCW
33 13.40.020 or a student court pursuant to section 18 of this act.

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

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

4 (1) If a notice of a traffic or civil infraction is filed in
5 juvenile court, the juvenile named in the notice shall be afforded the
6 same due process afforded to adult defendants in traffic infraction
7 cases.

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

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

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

20 (5) If a case involving the commission of a traffic or civil
21 infraction or offense by a juvenile under the age of sixteen has been
22 referred to a diversion unit, an abstract of the action taken by the
23 diversion unit may be forwarded to the department of licensing in the
24 manner provided for in RCW 46.20.270(2).

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

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

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

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

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

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

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

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

--- END ---