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**SUBSTITUTE SENATE BILL 5478**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senator Hargrove; by request of Sentencing Guidelines Commission)

READ FIRST TIME 02/05/09.

1            AN ACT Relating to the definition of "juvenile" as it relates to  
2 automatic adult court jurisdiction for subsequent offenses committed as  
3 a juvenile; and amending RCW 13.40.020.

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

5            **Sec. 1.** RCW 13.40.020 and 2004 c 120 s 2 are each amended to read  
6 as follows:

7            For the purposes of this chapter:

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

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

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

1 (b) Community restitution not to exceed one hundred fifty hours of  
2 community restitution;

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

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

21 (a) Community-based sanctions;

22 (b) Community-based rehabilitation;

23 (c) Monitoring and reporting requirements;

24 (d) Posting of a probation bond;

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

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

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

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

5 (b) The criminal complaint was diverted by a prosecutor pursuant to  
6 the provisions of this chapter on agreement of the respondent and after  
7 an advisement to the respondent that the criminal complaint would be  
8 considered as part of the respondent's criminal history. A  
9 successfully completed deferred adjudication that was entered before  
10 July 1, 1998, or a deferred disposition shall not be considered part of  
11 the respondent's criminal history;

12 (8) "Department" means the department of social and health  
13 services;

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

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

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

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

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

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

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

19 (16) "Local sanctions" means one or more of the following: (a) 0-  
20 30 days of confinement; (b) 0-12 months of community supervision; (c)  
21 0-150 hours of community restitution; or (d) \$0-\$500 fine;

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

25 (18) "Monitoring and reporting requirements" means one or more of  
26 the following: Curfews; requirements to remain at home, school, work,  
27 or court-ordered treatment programs during specified hours;  
28 restrictions from leaving or entering specified geographical areas;  
29 requirements to report to the probation officer as directed and to  
30 remain under the probation officer's supervision; and other conditions  
31 or limitations as the court may require which may not include  
32 confinement;

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

37 (20) "Probation bond" means a bond, posted with sufficient security  
38 by a surety justified and approved by the court, to secure the

1 offender's appearance at required court proceedings and compliance with  
2 court-ordered community supervision or conditions of release ordered  
3 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
4 cash or posting of other collateral in lieu of a bond if approved by  
5 the court;

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

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

17 (23) "Secretary" means the secretary of the department of social  
18 and health services. "Assistant secretary" means the assistant  
19 secretary for juvenile rehabilitation for the department;

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

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

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

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

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

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

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

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