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SUBSTITUTE HOUSE BILL 1505

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State of Washington

64th Legislature

2015 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Goodman, Kagi, Appleton, Jenkins, and Tharinger)

1 AN ACT Relating to juvenile restorative justice programs; and  
2 amending RCW 13.40.020.

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

4 **Sec. 1.** RCW 13.40.020 and 2014 c 110 s 1 are each amended to  
5 read as follows:

6 For the purposes of this chapter:

7 (1) "Assessment" means an individualized examination of a child  
8 to determine the child's psychosocial needs and problems, including  
9 the type and extent of any mental health, substance abuse, or co-  
10 occurring mental health and substance abuse disorders, and  
11 recommendations for treatment. "Assessment" includes, but is not  
12 limited to, drug and alcohol evaluations, psychological and  
13 psychiatric evaluations, records review, clinical interview, and  
14 administration of a formal test or instrument;

15 (2) "Community-based rehabilitation" means one or more of the  
16 following: Employment; attendance of information classes; literacy  
17 classes; counseling, outpatient substance abuse treatment programs,  
18 outpatient mental health programs, anger management classes,  
19 education or outpatient treatment programs to prevent animal cruelty,  
20 or other services including, when appropriate, restorative justice  
21 programs; or attendance at school or other educational programs

1 appropriate for the juvenile as determined by the school district.  
2 Placement in community-based rehabilitation programs is subject to  
3 available funds;

4 (3) "Community-based sanctions" may include one or more of the  
5 following:

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

7 (b) Community restitution not to exceed one hundred fifty hours  
8 of community restitution;

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

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

27 (a) Community-based sanctions;

28 (b) Community-based rehabilitation;

29 (c) Monitoring and reporting requirements;

30 (d) Posting of a probation bond;

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

1 (7) "Court," when used without further qualification, means the  
2 juvenile court judge(s) or commissioner(s);

3 (8) "Criminal history" includes all criminal complaints against  
4 the respondent for which, prior to the commission of a current  
5 offense:

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

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

17 (9) "Department" means the department of social and health  
18 services;

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

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

1 high school student, parent, and business owner, and should represent  
2 the cultural diversity of the local community;

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

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

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

13 (15) "Juvenile," "youth," and "child" mean any individual who is  
14 under the chronological age of eighteen years and who has not been  
15 previously transferred to adult court pursuant to RCW 13.40.110,  
16 unless the individual was convicted of a lesser charge or acquitted  
17 of the charge for which he or she was previously transferred pursuant  
18 to RCW 13.40.110 or who is not otherwise under adult court  
19 jurisdiction;

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

24 (17) "Labor" means the period of time before a birth during which  
25 contractions are of sufficient frequency, intensity, and duration to  
26 bring about effacement and progressive dilation of the cervix;

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

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

34 (20) "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

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

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

7 (22) "Physical restraint" means the use of any bodily force or  
8 physical intervention to control a juvenile offender or limit a  
9 juvenile offender's freedom of movement in a way that does not  
10 involve a mechanical restraint. Physical restraint does not include  
11 momentary periods of minimal physical restriction by direct person-  
12 to-person contact, without the aid of mechanical restraint,  
13 accomplished with limited force and designed to:

14 (a) Prevent a juvenile offender from completing an act that would  
15 result in potential bodily harm to self or others or damage property;

16 (b) Remove a disruptive juvenile offender who is unwilling to  
17 leave the area voluntarily; or

18 (c) Guide a juvenile offender from one location to another;

19 (23) "Postpartum recovery" means (a) the entire period a woman or  
20 youth is in the hospital, birthing center, or clinic after giving  
21 birth and (b) an additional time period, if any, a treating physician  
22 determines is necessary for healing after the youth leaves the  
23 hospital, birthing center, or clinic;

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

31 (25) "Respondent" means a juvenile who is alleged or proven to  
32 have committed an offense;

33 (26) "Restitution" means financial reimbursement by the offender  
34 to the victim, and shall be limited to easily ascertainable damages  
35 for injury to or loss of property, actual expenses incurred for  
36 medical treatment for physical injury to persons, lost wages  
37 resulting from physical injury, and costs of the victim's counseling  
38 reasonably related to the offense. Restitution shall not include  
39 reimbursement for damages for mental anguish, pain and suffering, or  
40 other intangible losses. Nothing in this chapter shall limit or

1 replace civil remedies or defenses available to the victim or  
2 offender;

3 (27) "Restorative justice" means practices, policies, and  
4 programs informed by and sensitive to the needs of crime victims that  
5 are designed to encourage offenders to accept responsibility for  
6 repairing the harm caused by their offense by providing safe and  
7 supportive opportunities for voluntary participation and  
8 communication between the victim, the offender, their families, and  
9 relevant community members;

10 (28) "Restraints" means anything used to control the movement of  
11 a person's body or limbs and includes:

12 (a) Physical restraint; or

13 (b) Mechanical device including but not limited to: Metal  
14 handcuffs, plastic ties, ankle restraints, leather cuffs, other  
15 hospital-type restraints, tasers, or batons;

16 (29) "Screening" means a process that is designed to identify a  
17 child who is at risk of having mental health, substance abuse, or co-  
18 occurring mental health and substance abuse disorders that warrant  
19 immediate attention, intervention, or more comprehensive assessment.  
20 A screening may be undertaken with or without the administration of a  
21 formal instrument;

22 (30) "Secretary" means the secretary of the department of social  
23 and health services. "Assistant secretary" means the assistant  
24 secretary for juvenile rehabilitation for the department;

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

29 (32) "Sex offense" means an offense defined as a sex offense in  
30 RCW 9.94A.030;

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

34 (34) "Surety" means an entity licensed under state insurance laws  
35 or by the state department of licensing, to write corporate,  
36 property, or probation bonds within the state, and justified and  
37 approved by the superior court of the county having jurisdiction of  
38 the case;

39 (35) "Transportation" means the conveying, by any means, of an  
40 incarcerated pregnant youth from the institution or detention

1 facility to another location from the moment she leaves the  
2 institution or detention facility to the time of arrival at the other  
3 location, and includes the escorting of the pregnant incarcerated  
4 youth from the institution or detention facility to a transport  
5 vehicle and from the vehicle to the other location;

6 (36) "Violation" means an act or omission, which if committed by  
7 an adult, must be proven beyond a reasonable doubt, and is punishable  
8 by sanctions which do not include incarceration;

9 (37) "Violent offense" means a violent offense as defined in RCW  
10 9.94A.030;

11 (38) "Youth court" means a diversion unit under the supervision  
12 of the juvenile court.

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