
SUBSTITUTE HOUSE BILL 1505

State of Washington 61st Legislature 2009 Regular Session

By House Human Services (originally sponsored by Representatives Dickerson, Dammeier, Green, Appleton, Roberts, Carlyle, Morrell, Orwall, Nelson, Johnson, and Hasegawa)

READ FIRST TIME 02/16/09.

1 AN ACT Relating to a diversion program for sexually exploited
2 juveniles; amending RCW 13.40.070; adding a new section to chapter
3 13.40 RCW; creating a new section; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that juveniles
6 involved in the commercial sex trade are sexually exploited and that
7 they face extreme threats to their physical and emotional well-being.
8 In order to help them break out of the isolation, fear, and danger of
9 the commercial sex trade and to assist them in their recovery from the
10 resulting mental and physical harm and in the development of skills
11 that will allow them to become independent and achieve long-term
12 security, these juveniles are in critical need of comprehensive
13 services, including housing, mental health counseling, education,
14 employment, chemical dependency treatment, and skill building. The
15 legislature further finds that a diversion program to provide these
16 comprehensive services, working within existing resources in the
17 counties which prosecute juveniles for prostitution and prostitution
18 loitering, may be an appropriate alternative to the prosecution of
19 juveniles involved in the commercial sex trade.

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

3 (1) When a juvenile is alleged to have committed the offenses of
4 prostitution or prostitution loitering, a prosecutor may divert the
5 offense if the county in which the offense is alleged to have been
6 committed has a comprehensive program that provides:

7 (a) Safe and stable housing;

8 (b) Comprehensive on-site case management;

9 (c) Integrated mental health and chemical dependency services,
10 including specialized trauma recovery services;

11 (d) Education and employment training delivered on-site; and

12 (e) Referrals to off-site specialized services, as appropriate.

13 (2) A prosecutor may divert a case for prostitution or prostitution
14 loitering into the comprehensive program described in this section,
15 notwithstanding the filing criteria set forth in RCW 13.40.070(5).

16 (3) A diversion agreement under this section may extend to twelve
17 months.

18 (4)(a) The administrative office of the courts shall compile data
19 regarding:

20 (i) The number of juveniles whose cases are diverted into the
21 comprehensive program described in this section;

22 (ii) Whether the juveniles complete their diversion agreements
23 under this section; and

24 (iii) Whether juveniles whose cases have been diverted under this
25 section have been subsequently arrested or committed subsequent
26 offenses.

27 (b) A report of the data compiled shall be provided to the governor
28 and the appropriate committee of the legislature by November 1, 2010.

29 **Sec. 3.** RCW 13.40.070 and 2003 c 53 s 98 are each amended to read
30 as follows:

31 (1) Complaints referred to the juvenile court alleging the
32 commission of an offense shall be referred directly to the prosecutor.
33 The prosecutor, upon receipt of a complaint, shall screen the complaint
34 to determine whether:

35 (a) The alleged facts bring the case within the jurisdiction of the
36 court; and

1 (b) On a basis of available evidence there is probable cause to
2 believe that the juvenile did commit the offense.

3 (2) If the identical alleged acts constitute an offense under both
4 the law of this state and an ordinance of any city or county of this
5 state, state law shall govern the prosecutor's screening and charging
6 decision for both filed and diverted cases.

7 (3) If the requirements of subsections (1)(a) and (b) of this
8 section are met, the prosecutor shall either file an information in
9 juvenile court or divert the case, as set forth in subsections (5),
10 (6), and (7) of this section. If the prosecutor finds that the
11 requirements of subsection (1)(a) and (b) of this section are not met,
12 the prosecutor shall maintain a record, for one year, of such decision
13 and the reasons therefor. In lieu of filing an information or
14 diverting an offense a prosecutor may file a motion to modify community
15 supervision where such offense constitutes a violation of community
16 supervision.

17 (4) An information shall be a plain, concise, and definite written
18 statement of the essential facts constituting the offense charged. It
19 shall be signed by the prosecuting attorney and conform to chapter
20 10.37 RCW.

21 (5) Except as provided in section 2 of this act, where a case is
22 legally sufficient, the prosecutor shall file an information with the
23 juvenile court if:

24 (a) An alleged offender is accused of a class A felony, a class B
25 felony, an attempt to commit a class B felony, a class C felony listed
26 in RCW 9.94A.411(2) as a crime against persons or listed in RCW
27 9A.46.060 as a crime of harassment, or a class C felony that is a
28 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

29 (b) An alleged offender is accused of a felony and has a criminal
30 history of any felony, or at least two gross misdemeanors, or at least
31 two misdemeanors; or

32 (c) An alleged offender has previously been committed to the
33 department; or

34 (d) An alleged offender has been referred by a diversion unit for
35 prosecution or desires prosecution instead of diversion; or

36 (e) An alleged offender has two or more diversion agreements on the
37 alleged offender's criminal history; or

1 (f) A special allegation has been filed that the offender or an
2 accomplice was armed with a firearm when the offense was committed.

3 (6) Where a case is legally sufficient the prosecutor shall divert
4 the case if the alleged offense is a misdemeanor or gross misdemeanor
5 or violation and the alleged offense is the offender's first offense or
6 violation. If the alleged offender is charged with a related offense
7 that must or may be filed under subsections (5) and (7) of this
8 section, a case under this subsection may also be filed.

9 (7) Where a case is legally sufficient and falls into neither
10 subsection (5) nor (6) of this section, it may be filed or diverted.
11 In deciding whether to file or divert an offense under this section the
12 prosecutor shall be guided only by the length, seriousness, and recency
13 of the alleged offender's criminal history and the circumstances
14 surrounding the commission of the alleged offense.

15 (8) Whenever a juvenile is placed in custody or, where not placed
16 in custody, referred to a diversion interview, the parent or legal
17 guardian of the juvenile shall be notified as soon as possible
18 concerning the allegation made against the juvenile and the current
19 status of the juvenile. Where a case involves victims of crimes
20 against persons or victims whose property has not been recovered at the
21 time a juvenile is referred to a diversion unit, the victim shall be
22 notified of the referral and informed how to contact the unit.

23 (9) The responsibilities of the prosecutor under subsections (1)
24 through (8) of this section may be performed by a juvenile court
25 probation counselor for any complaint referred to the court alleging
26 the commission of an offense which would not be a felony if committed
27 by an adult, if the prosecutor has given sufficient written notice to
28 the juvenile court that the prosecutor will not review such complaints.

29 (10) The prosecutor, juvenile court probation counselor, or
30 diversion unit may, in exercising their authority under this section or
31 RCW 13.40.080, refer juveniles to mediation or victim offender
32 reconciliation programs. Such mediation or victim offender
33 reconciliation programs shall be voluntary for victims.

34 NEW SECTION. **Sec. 4.** This act expires July 1, 2011.

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