
HOUSE BILL 1432

State of Washington

68th Legislature

2023 Regular Session

By Representatives Farivar, Cortes, Senn, Simmons, Goodman, Reed, Callan, Ortiz-Self, Fosse, Berry, Alvarado, and Thai

1 AN ACT Relating to decreasing barriers to successful community
2 participation for individuals involved in the juvenile justice
3 system; amending RCW 6.17.020, 7.68.035, 7.68.120, 10.01.160,
4 13.40.020, 13.40.060, 13.40.077, 13.40.080, 13.40.127, 13.40.150,
5 13.40.162, 13.40.165, 13.40.180, 13.40.190, 13.40.200, 13.40.205,
6 13.40.205, 13.40.210, 13.40.250, 13.40.308, 13.40.510, 13.50.260,
7 13.50.270, and 43.43.7541; reenacting and amending RCW 13.40.020;
8 adding new sections to chapter 13.40 RCW; creating new sections;
9 repealing RCW 13.40.056, 13.40.085, 13.40.192, 13.40.198, 13.40.610,
10 and 13.40.640; providing contingent effective dates; and providing
11 contingent expiration dates.

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

13 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

14 (a) The goal of the juvenile justice system should be to protect
15 public safety by providing meaningful opportunity for rehabilitation.
16 Outstanding legal financial obligations represent a significant
17 obstacle for youth and emerging adults trying to rebuild their lives
18 after involvement with the juvenile justice system. The consequences
19 of legal financial obligations for youth impact their ability to
20 access education, find and keep work, and to remain stably housed -

1 all key indicators of success and statistically important factors in
2 reducing recidivism.

3 (b) Despite significant reforms, thousands of youth impacted by
4 the juvenile justice system are struggling to pay legal financial
5 obligations and other costs, and very few harmed parties receive the
6 restitution ordered by juvenile courts.

7 (c) Decades of research in Washington and around the country has
8 found that legal financial obligations fall disproportionately on
9 black, indigenous, low-income, and rural communities and communities
10 of color. These disproportionate harms are unacceptable in any
11 context, but especially well documented in juvenile court. Legal
12 financial obligations are also expensive to collect, an unstable
13 source of government revenue, and undermine trust in courts that may
14 seem to operate as tax collectors. Because juveniles do not have the
15 means to pay, only a small percentage of juvenile restitution is
16 collected and in turn, harmed parties rarely see any compensation.
17 Making people whole should be a guiding principle of any juvenile
18 court system, while acknowledging that society bears some
19 responsibility for harm done by individual young people.

20 (d) Eliminating juvenile legal financial obligations and creating
21 a community compensation program will better serve harmed parties,
22 increase racial and socioeconomic equity in Washington, improve
23 public safety, and help to support young people and families involved
24 in the juvenile system.

25 (2) Therefore, the legislature finds and declares that the
26 purpose of this act is to improve public safety by decreasing
27 barriers to successful reentry and rehabilitation amongst youth
28 previously involved in the juvenile justice system.

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

31 No fine, administrative fee, cost, surcharge, or restitution may
32 be imposed or collected by the court or any agent of the court
33 against any juvenile or a juvenile's parent or guardian, or other
34 person having custody of the juvenile, in connection with any
35 juvenile offender proceeding including, but not limited to, fees for
36 diversion, DNA sampling, or victims' penalty assessments. Parties
37 harmed by juveniles may collect compensation through the community
38 compensation program as provided in section 4 of this act.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.40
2 RCW to read as follows:

3 (1) On or before the effective date of this section, the
4 administrative office of the courts, courts of limited jurisdiction
5 and their clerks, shall ensure that any fine, fee, cost, surcharge,
6 or restitution previously imposed against juveniles and family
7 members by the juvenile court is considered null and void, and
8 uncollectible. The administrative office of the courts shall notify
9 juveniles and families about any waived debt.

10 (2) On or before July 1, 2023, and in compliance with RCW
11 43.01.036, the administrative office of the courts shall report to
12 the relevant committees of the legislature the numbers of orders
13 vacated or partially vacated pursuant to this section in each
14 judicial district and the amount of the balances vacated in each
15 judicial district.

16 (3) On or before July 1, 2023, and annually thereafter, the
17 administrative office of the courts shall in compliance with RCW
18 43.01.036, report to the relevant committees of the legislature the
19 total amount assessed to and collected from individuals charged in
20 superior court and other courts of limited jurisdiction, in fees,
21 court costs, fines, and restitution. This annual report shall include
22 information about total amounts assessed and collected, disaggregated
23 by the defendants' age, race, gender, legal financial obligation
24 type, and charging court.

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

27 (1) A community compensation task force is established within the
28 department of labor and industries. The purpose of the task force is
29 to address the elimination of juvenile restitution required by
30 section 2 of this act and the compensation of parties harmed by
31 juveniles. Core considerations for the task force should be reliant
32 on restorative principles and best practices. The task force shall
33 hold its first meeting on or before July 1, 2023. A final
34 implementation plan must be submitted on or before July 1, 2024, to
35 the appropriate committees of the legislature. The final
36 implementation plan must be published and must include:

37 (a) A description of the decision-making structure recommended by
38 the task force;

1 (b) Details on the infrastructure of the community compensation
2 program created in this section to compensate parties harmed by
3 juveniles including, but not limited to, how the program shall
4 operate within the department of labor and industries, and an
5 estimate of the administrative cost required to maintain the program
6 including the salaries of any necessary staff;

7 (c) A process for harmed parties, potentially including those who
8 do not meet the current statutory definition of "victim," to
9 participate in the community compensation program, including details
10 of the application and disbursement process, which must:

11 (i) Ensure individuals may participate in the compensation
12 program regardless of their legal status;

13 (ii) Guarantee, to the greatest extent possible, the anonymity of
14 those participating in the compensation program;

15 (iii) Not require a court order for harmed parties to participate
16 in the compensation program;

17 (iv) Limit, to the greatest extent possible, the amount of
18 documentation required to participate in the program and the
19 administrative burden on individuals seeking payment;

20 (v) Consider capping amounts and types of costs that are eligible
21 for compensation; and

22 (vi) Consider critically the ability of government entities,
23 corporations, insurance companies, and other nonindividual harmed
24 parties to participate in the compensation program with individual
25 harmed parties having priority access;

26 (d) A process for determining the eligibility of parties who may
27 try to participate in the program. It is the intention of the
28 legislature that the community compensation program be accessible to
29 the broadest possible number of harmed parties, and that
30 participation in the program does not require an adjudication or an
31 order from the court; and

32 (e) Standards and practices for calculating the amount of
33 compensation individual applicants may receive.

34 (2) The community compensation task force representatives shall
35 include:

36 (a) Three people who were ordered to pay juvenile legal financial
37 obligations, either as juveniles or parents;

38 (b) Three people who were ordered to receive restitution payments
39 from a respondent;

1 (c) One representative from a statewide coalition focused on
2 legal financial obligations and youth justice;

3 (d) One representative from a civil society organization focused
4 on legal financial obligation reform;

5 (e) One member of the Washington state partnership council on
6 juvenile justice;

7 (f) One public defender specializing in juvenile law;

8 (g) One juvenile court judge;

9 (h) One prosecutor specializing in juvenile law;

10 (i) One county clerk or juvenile court administrator;

11 (j) One member of the Washington state supreme court minority and
12 justice commission; and

13 (k) One individual with expertise in restorative justice
14 practices or expertise in community compensation programs.

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

17 (1) Within funds appropriated for this specific purpose, the
18 community compensation program is created in and will be administered
19 by the department of labor and industries. The program is authorized
20 to receive private contributions and funds from other sources.

21 (2) Consistent with the recommendations of the community
22 compensation task force established in section 4 of this act, the
23 community compensation program will provide compensation to parties
24 harmed by juveniles.

25 (3) The department may adopt rules necessary to implement this
26 section.

27 **Sec. 6.** RCW 6.17.020 and 2022 c 260 s 5 are each amended to read
28 as follows:

29 (1) Except as provided in subsections (2), (3), and (4) of this
30 section, the party in whose favor a judgment of a court has been or
31 may be filed or rendered, or the assignee or the current holder
32 thereof, may have an execution, garnishment, or other legal process
33 issued for the collection or enforcement of the judgment at any time
34 within 10 years from entry of the judgment or the filing of the
35 judgment in this state.

36 (2) After July 23, 1989, a party who obtains a judgment or order
37 of a court or an administrative order entered as defined in RCW
38 74.20A.020(6) for accrued child support, or the assignee or the

1 current holder thereof, may have an execution, garnishment, or other
2 legal process issued upon that judgment or order at any time within
3 10 years of the 18th birthday of the youngest child named in the
4 order for whom support is ordered.

5 (3) After June 9, 1994, a party in whose favor a judgment has
6 been filed as a foreign judgment or rendered pursuant to subsection
7 (1) or (4) of this section, or the assignee or the current holder
8 thereof, may, within 90 days before the expiration of the original
9 10-year period, apply to the court that rendered the judgment or to
10 the court where the judgment was filed as a foreign judgment for an
11 order granting an additional 10 years during which an execution,
12 garnishment, or other legal process may be issued. If a district
13 court judgment of this state is transcribed to a superior court of
14 this state, the original district court judgment shall not be
15 extended and any petition under this section to extend the judgment
16 that has been transcribed to superior court shall be filed in the
17 superior court within 90 days before the expiration of the 10-year
18 period of the date the transcript of the district court judgment was
19 filed in the superior court of this state. The petitioner shall pay
20 to the court a filing fee equal to the filing fee for filing the
21 first or initial paper in a civil action in the court, except in the
22 case of district court judgments transcribed to superior court, where
23 the filing fee shall be the fee for filing the first or initial paper
24 in a civil action in the superior court where the judgment was
25 transcribed. The order granting the application shall contain an
26 updated judgment summary as provided in RCW 4.64.030. The filing fee
27 required under this subsection shall be included in the judgment
28 summary and shall be a recoverable cost. The application shall be
29 granted as a matter of right, subject to review only for timeliness,
30 factual issues of full or partial satisfaction, or errors in
31 calculating the judgment summary amounts.

32 (4) (a) A party who obtains a judgment or order for restitution
33 pursuant to a criminal judgment and sentence against an adult
34 defendant, or the assignee or the current holder thereof, may
35 execute, garnish, and/or have legal process issued upon the judgment
36 or order any time within 10 years subsequent to the entry of the
37 judgment and sentence or 10 years following the adult offender's
38 release from total confinement as provided in chapter 9.94A RCW. The
39 clerk of (~~the~~) the superior court, or a party designated by the
40 clerk, may seek extension under subsection (3) of this section for

1 purposes of collection as allowed under RCW 36.18.190, provided that
2 no filing fee shall be required.

3 (b) A party who obtains a judgment or order for court-ordered
4 legal financial obligations other than restitution, pursuant to a
5 criminal judgment and sentence against an adult defendant, or the
6 assignee or the current holder thereof, may execute, garnish, and
7 have legal process issued upon the judgment or order any time within
8 10 years subsequent to the entry of the judgment and sentence or 10
9 years following the adult offender's release from total confinement
10 as provided in chapter 9.94A RCW. The clerk of (~~the~~) the superior
11 court, or a party designated by the clerk, may seek extension under
12 subsection (3) of this section for purposes of collection as allowed
13 under RCW 36.18.190, only if the court finds that the offender has
14 the current or likely future ability to pay the nonrestitution legal
15 financial obligations. A person does not have the current ability to
16 pay if the person is indigent as defined in RCW 10.01.160(3). No
17 filing fee shall be required for filing a petition for an extension
18 pursuant to this subsection (4)(b).

19 (5) "Court" as used in this section includes but is not limited
20 to the United States supreme court, the United States courts of
21 appeals, the United States district courts, the United States
22 bankruptcy courts, the Washington state supreme court, the court of
23 appeals of the state of Washington, superior courts and district
24 courts of the counties of the state of Washington, and courts of
25 other states and jurisdictions from which judgment has been filed in
26 this state under chapter 6.36 or 6.40 RCW.

27 (6) The perfection of any judgment lien and the priority of that
28 judgment lien on property as established by RCW 6.13.090 and chapter
29 4.56 RCW is not altered by the extension of the judgment pursuant to
30 the provisions of this section and the lien remains in full force and
31 effect and does not have to be rerecorded after it is extended.
32 Continued perfection of a judgment that has been transcribed to other
33 counties and perfected in those counties may be accomplished after
34 extension of the judgment by filing with the clerk of the other
35 counties where the judgment has been filed either a certified copy of
36 the order extending the judgment or a certified copy of the docket of
37 the matter where the judgment was extended.

38 (7) Except as ordered in RCW 4.16.020 (2) or (3), chapter 9.94A
39 RCW, or chapter 13.40 RCW, no judgment is enforceable for a period
40 exceeding 20 years from the date of entry in the originating court.

1 Nothing in this section may be interpreted to extend the expiration
2 date of a foreign judgment beyond the expiration date under the laws
3 of the jurisdiction where the judgment originated.

4 (8) The chapter 261, Laws of 2002 amendments to this section
5 apply to all judgments currently in effect on June 13, 2002, to all
6 judgments extended after June 9, 1994, unless the judgment has been
7 satisfied, vacated, and/or quashed, and to all judgments filed or
8 rendered, or both, after June 13, 2002.

9 (9) Notwithstanding any provisions of this section, no fees,
10 costs, or surcharges arising out of a juvenile offender proceeding
11 may be charged to a juvenile, or the parent, guardian, or other
12 person having custody of a juvenile.

13 **Sec. 7.** RCW 7.68.035 and 2018 c 269 s 19 are each amended to
14 read as follows:

15 (1) ~~((a))~~ When any ~~((person))~~ adult is found guilty in any
16 superior court of having committed a crime, except as provided in
17 subsection (2) of this section, there shall be imposed by the court
18 upon such convicted person a penalty assessment. The assessment shall
19 be in addition to any other penalty or fine imposed by law and shall
20 be five hundred dollars for each case or cause of action that
21 includes one or more convictions of a felony or gross misdemeanor and
22 two hundred fifty dollars for any case or cause of action that
23 includes convictions of only one or more misdemeanors.

24 ~~((b) When any juvenile is adjudicated of an offense that is a~~
25 ~~most serious offense as defined in RCW 9.94A.030, or a sex offense~~
26 ~~under chapter 9A.44 RCW, there shall be imposed upon the juvenile~~
27 ~~offender a penalty assessment. The assessment shall be in addition to~~
28 ~~any other penalty or fine imposed by law and shall be one hundred~~
29 ~~dollars for each case or cause of action.~~

30 ~~(c) When any juvenile is adjudicated of an offense which has a~~
31 ~~victim, and which is not a most serious offense as defined in RCW~~
32 ~~9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall~~
33 ~~order up to seven hours of community restitution, unless the court~~
34 ~~finds that such an order is not practicable for the offender. This~~
35 ~~community restitution must be imposed consecutively to any other~~
36 ~~community restitution the court imposes for the offense.))~~

37 (2) The assessment imposed by subsection (1) of this section
38 shall not apply to motor vehicle crimes defined in Title 46 RCW
39 except those defined in the following sections: RCW 46.61.520,

1 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504,
2 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249,
3 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010,
4 46.44.180, 46.10.490(2), and 46.09.470(2).

5 (3) When any (~~person~~) adult accused of having committed a crime
6 posts bail in superior court pursuant to the provisions of chapter
7 10.19 RCW and such bail is forfeited, there shall be deducted from
8 the proceeds of such forfeited bail a penalty assessment, in addition
9 to any other penalty or fine imposed by law, equal to the assessment
10 which would be applicable under subsection (1) of this section if the
11 person had been convicted of the crime.

12 (4) Such penalty assessments shall be paid by the clerk of the
13 superior court to the county treasurer. Each county shall deposit one
14 hundred percent of the money it receives per case or cause of action
15 under subsection (1) of this section, not less than one and seventy-
16 five one-hundredths percent of the remaining money it retains under
17 RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and
18 all money it receives under subsection (7) of this section into a
19 fund maintained exclusively for the support of comprehensive programs
20 to encourage and facilitate testimony by the victims of crimes and
21 witnesses to crimes. A program shall be considered "comprehensive"
22 only after approval of the department upon application by the county
23 prosecuting attorney. The department shall approve as comprehensive
24 only programs which:

25 (a) Provide comprehensive services to victims and witnesses of
26 all types of crime with particular emphasis on serious crimes against
27 persons and property. It is the intent of the legislature to make
28 funds available only to programs which do not restrict services to
29 victims or witnesses of a particular type or types of crime and that
30 such funds supplement, not supplant, existing local funding levels;

31 (b) Are administered by the county prosecuting attorney either
32 directly through the prosecuting attorney's office or by contract
33 between the county and agencies providing services to victims of
34 crime;

35 (c) Make a reasonable effort to inform the known victim or his or
36 her surviving dependents of the existence of this chapter and the
37 procedure for making application for benefits;

38 (d) Assist victims in the restitution and adjudication process;
39 and

1 (e) Assist victims of violent crimes in the preparation and
2 presentation of their claims to the department of labor and
3 industries under this chapter.

4 Before a program in any county west of the Cascade mountains is
5 submitted to the department for approval, it shall be submitted for
6 review and comment to each city within the county with a population
7 of more than one hundred fifty thousand. The department will consider
8 if the county's proposed comprehensive plan meets the needs of crime
9 victims in cases adjudicated in municipal, district or superior
10 courts and of crime victims located within the city and county.

11 (5) Upon submission to the department of a letter of intent to
12 adopt a comprehensive program, the prosecuting attorney shall retain
13 the money deposited by the county under subsection (4) of this
14 section until such time as the county prosecuting attorney has
15 obtained approval of a program from the department. Approval of the
16 comprehensive plan by the department must be obtained within one year
17 of the date of the letter of intent to adopt a comprehensive program.
18 The county prosecuting attorney shall not make any expenditures from
19 the money deposited under subsection (4) of this section until
20 approval of a comprehensive plan by the department. If a county
21 prosecuting attorney has failed to obtain approval of a program from
22 the department under subsection (4) of this section or failed to
23 obtain approval of a comprehensive program within one year after
24 submission of a letter of intent under this section, the county
25 treasurer shall monthly transmit one hundred percent of the money
26 deposited by the county under subsection (4) of this section to the
27 state treasurer for deposit in the state general fund.

28 (6) County prosecuting attorneys are responsible to make every
29 reasonable effort to insure that the penalty assessments of this
30 chapter are imposed and collected.

31 (7) Every city and town shall transmit monthly one and seventy-
32 five one-hundredths percent of all money, other than money received
33 for parking infractions, retained under RCW 3.50.100 and 35.20.220 to
34 the county treasurer for deposit as provided in subsection (4) of
35 this section.

36 **Sec. 8.** RCW 7.68.120 and 1995 c 33 s 1 are each amended to read
37 as follows:

1 Any (~~person~~) adult who has committed a criminal act which
2 resulted in injury compensated under this chapter may be required to
3 make reimbursement to the department as provided in this section.

4 (1) Any payment of benefits to or on behalf of a victim under
5 this chapter creates a debt due and owing to the department by any
6 person found to have committed the criminal act in either a civil or
7 criminal court proceeding in which he or she is a party. If there has
8 been a superior or district court order, or an order of the
9 indeterminate sentence review board or the department of social and
10 health services, as provided in subsection (4) of this section, the
11 debt shall be limited to the amount provided for in the order. A
12 court order shall prevail over any other order. If, in a criminal
13 proceeding, a person has been found to have committed the criminal
14 act that results in the payment of benefits to a victim and the court
15 in the criminal proceeding does not enter a restitution order, the
16 department shall, within one year of imposition of the sentence,
17 petition the court for entry of a restitution order.

18 (2) (a) The department may issue a notice of debt due and owing to
19 the person found to have committed the criminal act, and shall serve
20 the notice on the person in the manner prescribed for the service of
21 a summons in a civil action or by certified mail. The department
22 shall file the notice of debt due and owing along with proof of
23 service with the superior court of the county where the criminal act
24 took place. The person served the notice shall have thirty days from
25 the date of service to respond to the notice by requesting a hearing
26 in superior court.

27 (b) If a person served a notice of debt due and owing fails to
28 respond within thirty days, the department may seek a default
29 judgment. Upon entry of a judgment in an action brought pursuant to
30 (a) of this subsection, the clerk shall enter the order in the
31 execution docket. The filing fee shall be added to the amount of the
32 debt indicated in the judgment. The judgment shall become a lien upon
33 all real and personal property of the person named in the judgment as
34 in other civil cases. The judgment shall be subject to execution,
35 garnishment, or other procedures for collection of a judgment.

36 (3) (a) The director, or the director's designee, may issue to any
37 person or organization an order to withhold and deliver property of
38 any kind if there is reason to believe that the person or
39 organization possesses property that is due, owing, or belonging to
40 any person against whom a judgment for a debt due and owing has been

1 entered under subsection (2) of this section. For purposes of this
2 subsection, "person or organization" includes any individual, firm,
3 association, corporation, political subdivision of the state, or
4 agency of the state.

5 (b) The order to withhold and deliver must be served in the
6 manner prescribed for the service of a summons in a civil action or
7 by certified mail, return receipt requested. Any person or
8 organization upon whom service has been made shall answer the order
9 within twenty days exclusive of the day of service, under oath and in
10 writing, and shall make true answers to the matters inquired of
11 therein.

12 (c) If there is in the possession of the person or organization
13 served with the order any property that might be subject to the claim
14 of the department, the person or organization must immediately
15 withhold such property and deliver the property to the director or
16 the director's authorized representative immediately upon demand.

17 (d) If the person or organization served the order fails to
18 timely answer the order, the court may render judgment by default
19 against the person or organization for the full amount claimed by the
20 director in the order plus costs.

21 (e) If an order to withhold and deliver is served upon an
22 employer and the property found to be subject to the notice is wages,
23 the employer may assert in the answer all exemptions to which the
24 wage earner might be entitled as provided by RCW 6.27.150.

25 (4) Upon being placed on work release pursuant to chapter 72.65
26 RCW, or upon release from custody of a state correctional facility on
27 parole, any convicted person who owes a debt to the department as a
28 consequence of a criminal act may have the schedule or amount of
29 payments therefor set as a condition of work release or parole by the
30 department of social and health services or indeterminate sentence
31 review board respectively, subject to modification based on change of
32 circumstances. Such action shall be binding on the department.

33 (5) Any requirement for payment due and owing the department by a
34 convicted person under this chapter may be waived, modified downward
35 or otherwise adjusted by the department in the interest of justice,
36 the well-being of the victim, and the rehabilitation of the
37 individual.

38 (6) The department shall not seek payment for a debt due and
39 owing if such action would deprive the victim of the crime giving

1 rise to the claim under this chapter of the benefit of any property
2 to which the victim would be entitled under RCW 26.16.030.

3 **Sec. 9.** RCW 10.01.160 and 2022 c 260 s 9 are each amended to
4 read as follows:

5 (1) Except as provided in subsection (3) of this section, the
6 court may require a defendant to pay costs. Costs may be imposed only
7 upon a convicted adult defendant, except for costs imposed upon ((a))
8 an adult defendant's entry into a deferred prosecution program, costs
9 imposed upon ((a)) an adult defendant for pretrial supervision, or
10 costs imposed upon ((a)) an adult defendant for preparing and serving
11 a warrant for failure to appear.

12 (2) Costs shall be limited to expenses specially incurred by the
13 state in prosecuting the defendant or in administering the deferred
14 prosecution program under chapter 10.05 RCW or pretrial supervision.
15 They cannot include expenses inherent in providing a constitutionally
16 guaranteed jury trial or expenditures in connection with the
17 maintenance and operation of government agencies that must be made by
18 the public irrespective of specific violations of law. Expenses
19 incurred for serving of warrants for failure to appear and jury fees
20 under RCW 10.46.190 may be included in costs the court may require a
21 defendant to pay. Costs for administering a deferred prosecution may
22 not exceed \$250. Costs for administering a pretrial supervision other
23 than a pretrial electronic alcohol monitoring program, drug
24 monitoring program, or 24/7 sobriety program may not exceed \$150.
25 Costs for preparing and serving a warrant for failure to appear may
26 not exceed \$100. Costs of incarceration imposed on a defendant
27 convicted of a misdemeanor or a gross misdemeanor may not exceed the
28 actual cost of incarceration. In no case may the court require the
29 offender to pay more than \$100 per day for the cost of incarceration.
30 Payment of other court-ordered financial obligations, including all
31 legal financial obligations and costs of supervision take precedence
32 over the payment of the cost of incarceration ordered by the court.
33 All funds received from defendants for the cost of incarceration in
34 the county or city jail must be remitted for criminal justice
35 purposes to the county or city that is responsible for the
36 defendant's jail costs. Costs imposed constitute a judgment against a
37 defendant and survive a dismissal of the underlying action against
38 the defendant. However, if the defendant is acquitted on the
39 underlying action, the costs for preparing and serving a warrant for

1 failure to appear do not survive the acquittal, and the judgment that
2 such costs would otherwise constitute shall be vacated.

3 (3) The court shall not order a defendant to pay costs if the
4 defendant at the time of sentencing is indigent. In determining the
5 amount and method of payment of costs for defendants who are not
6 indigent, the court shall take account of the financial resources of
7 the defendant and the nature of the burden that payment of costs will
8 impose. For the purposes of this section, a defendant is "indigent"
9 if the defendant: (a) Meets the criteria defined in RCW 10.101.010(3)
10 (a) through (c); (b) is homeless or mentally ill as defined in RCW
11 71.24.025; (c) has household income above 125 percent of the federal
12 poverty guidelines and has recurring basic living costs, as defined
13 in RCW 10.101.010, that render the defendant without the financial
14 ability to pay; ~~((e))~~ (d) was a minor at the time the crime
15 occurred; or (e) has other compelling circumstances that exist that
16 demonstrate an inability to pay.

17 (4) A defendant who has been ordered to pay costs and who has not
18 willfully failed to pay the obligation, as described in RCW
19 9.94A.6333, 9.94B.040, and 10.01.180, may at any time petition the
20 sentencing court for remission of the payment of costs or of any
21 unpaid portion thereof. If it appears to the satisfaction of the
22 court that payment of the amount due will impose manifest hardship on
23 the defendant or the defendant's immediate family, the court may
24 remit all or part of the amount due in costs, modify the method of
25 payment under RCW 10.01.170, or convert the unpaid costs to community
26 restitution hours, if the jurisdiction operates a community
27 restitution program, at the rate of no less than the state minimum
28 wage established in RCW 49.46.020 for each hour of community
29 restitution. Manifest hardship exists where the defendant is indigent
30 as defined in subsection (3) of this section.

31 (5) Except for direct costs relating to evaluating and reporting
32 to the court, prosecutor, or defense counsel regarding a defendant's
33 competency to stand trial as provided in RCW 10.77.060, this section
34 shall not apply to costs related to medical or mental health
35 treatment or services a defendant receives while in custody of the
36 secretary of the department of social and health services or other
37 governmental units. This section shall not prevent the secretary of
38 the department of social and health services or other governmental
39 units from imposing liability and seeking reimbursement from a
40 defendant committed to an appropriate facility as provided in RCW

1 10.77.084 while criminal proceedings are stayed. This section shall
2 also not prevent governmental units from imposing liability on
3 defendants for costs related to providing medical or mental health
4 treatment while the defendant is in the governmental unit's custody.
5 Medical or mental health treatment and services a defendant receives
6 at a state hospital or other facility are not a cost of prosecution
7 and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter
8 43.20B RCW, and any other applicable statute.

9 **Sec. 10.** RCW 13.40.020 and 2021 c 328 s 5 and 2021 c 206 s 3 are
10 each reenacted and amended to read as follows:

11 For the purposes of this chapter:

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

20 (2) "Community-based rehabilitation" means one or more of the
21 following: Employment; attendance of information classes; literacy
22 classes; counseling, outpatient substance abuse treatment programs,
23 outpatient mental health programs, anger management classes,
24 education or outpatient treatment programs to prevent animal cruelty,
25 or other services including, when appropriate, restorative justice
26 programs; or attendance at school or other educational programs
27 appropriate for the juvenile as determined by the school district.
28 Placement in community-based rehabilitation programs is subject to
29 available funds;

30 (3) "Community-based sanctions" may include (~~one or more of the~~
31 ~~following~~;

32 ~~(a) A fine, not to exceed \$500;~~

33 ~~(b) Community restitution)) community service not to exceed~~
34 ~~((150)) eight hours ((of community restitution));~~

35 (4) "Community (~~restitution~~) service" means compulsory service,
36 without compensation, performed for the benefit of the community by
37 the offender as punishment for committing an offense. Community
38 (~~restitution~~) service may be performed through public or private
39 organizations or through work crews, or by attending school, work,

1 therapy, treatment, or other prosocial activities as determined by
2 the judge in consultation with the juvenile;

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

- 16 (a) Community-based sanctions;
- 17 (b) Community-based rehabilitation;
- 18 (c) Monitoring and reporting requirements;
- 19 (d) Posting of a probation bond;

20 (e) Residential treatment, where substance abuse, mental health,
21 and/or co-occurring disorders have been identified in an assessment
22 by a qualified mental health professional, psychologist,
23 psychiatrist, co-occurring disorder specialist, or substance use
24 disorder professional and a funded bed is available. If a child
25 agrees to voluntary placement in a state-funded long-term evaluation
26 and treatment facility, the case must follow the existing placement
27 procedure including consideration of less restrictive treatment
28 options and medical necessity.

29 (i) A court may order residential treatment after consideration
30 and findings regarding whether:

- 31 (A) The referral is necessary to rehabilitate the child;
- 32 (B) The referral is necessary to protect the public or the child;
- 33 (C) The referral is in the child's best interest;

34 (D) The child has been given the opportunity to engage in less
35 restrictive treatment and has been unable or unwilling to comply; and

36 (E) Inpatient treatment is the least restrictive action
37 consistent with the child's needs and circumstances.

38 (ii) In any case where a court orders a child to inpatient
39 treatment under this section, the court must hold a review hearing no
40 later than 60 days after the youth begins inpatient treatment, and

1 every 30 days thereafter, as long as the youth is in inpatient
2 treatment;

3 (6) "Community transition services" means a therapeutic and
4 supportive community-based custody option in which:

5 (a) A person serves a portion of their term of confinement
6 residing in the community, outside of department institutions and
7 community facilities;

8 (b) The department supervises the person in part through the use
9 of technology that is capable of determining or identifying the
10 monitored person's presence or absence at a particular location;

11 (c) The department provides access to developmentally
12 appropriate, trauma-informed, racial equity-based, and culturally
13 relevant programs to promote successful reentry; and

14 (d) The department prioritizes the delivery of available
15 programming from individuals who share characteristics with the
16 individual being served related to: Race, ethnicity, sexual identity,
17 and gender identity;

18 (7) "Confinement" means physical custody by the department of
19 children, youth, and families in a facility operated by or pursuant
20 to a contract with the state, or physical custody in a detention
21 facility operated by or pursuant to a contract with any county. The
22 county may operate or contract with vendors to operate county
23 detention facilities. The department may operate or contract to
24 operate detention facilities for juveniles committed to the
25 department. Pretrial confinement or confinement of less than 31 days
26 imposed as part of a disposition or modification order may be served
27 consecutively or intermittently, in the discretion of the court;

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

30 (9) "Criminal history" includes all criminal complaints against
31 the respondent for which, prior to the commission of a current
32 offense:

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

37 (b) The criminal complaint was diverted by a prosecutor pursuant
38 to the provisions of this chapter on agreement of the respondent and
39 after an advisement to the respondent that the criminal complaint
40 would be considered as part of the respondent's criminal history. A

1 successfully completed deferred adjudication that was entered before
2 July 1, 1998, or a deferred disposition shall not be considered part
3 of the respondent's criminal history;

4 (10) "Custodial interrogation" means express questioning or other
5 actions or words by a law enforcement officer which are reasonably
6 likely to elicit an incriminating response from an individual and
7 occurs when reasonable individuals in the same circumstances would
8 consider themselves in custody;

9 (11) "Department" means the department of children, youth, and
10 families;

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

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

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

38 (15) "Institution" means a juvenile facility established pursuant
39 to chapters 72.05 and 72.16 through 72.20 RCW;

1 (16) "Intensive supervision program" means a parole program that
2 requires intensive supervision and monitoring, offers an array of
3 individualized treatment and transitional services, and emphasizes
4 community involvement and support in order to reduce the likelihood a
5 juvenile offender will commit further offenses;

6 (17) "Juvenile," "youth," and "child" mean any individual who is
7 under the chronological age of 18 years and who has not been
8 previously transferred to adult court pursuant to RCW 13.40.110,
9 unless the individual was convicted of a lesser charge or acquitted
10 of the charge for which he or she was previously transferred pursuant
11 to RCW 13.40.110 or who is not otherwise under adult court
12 jurisdiction;

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

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

20 (20) "Local sanctions" means one or more of the following: (a)
21 0-30 days of confinement; (b) 0-12 months of community supervision;
22 or (c) ~~((0-150))~~ 0-8 hours of community ~~((restitution; or (d) \$0-\$500~~
23 ~~fine))~~ service;

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

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

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

1 (24) "Physical restraint" means the use of any bodily force or
2 physical intervention to control a juvenile offender or limit a
3 juvenile offender's freedom of movement in a way that does not
4 involve a mechanical restraint. Physical restraint does not include
5 momentary periods of minimal physical restriction by direct person-
6 to-person contact, without the aid of mechanical restraint,
7 accomplished with limited force and designed to:

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

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

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

13 (25) "Postpartum recovery" means (a) the entire period a woman or
14 youth is in the hospital, birthing center, or clinic after giving
15 birth and (b) an additional time period, if any, a treating physician
16 determines is necessary for healing after the youth leaves the
17 hospital, birthing center, or clinic;

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

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

27 (28) (~~("Restitution")~~) "Community compensation" means (~~((financial~~
28 ~~reimbursement by the offender to the victim, and shall be limited to~~
29 ~~easily))~~) ascertainable damages for injury to or loss of property,
30 actual expenses incurred for medical treatment for physical injury to
31 persons, lost wages resulting from physical injury, and costs of
32 (~~(the victim's)~~) counseling reasonably related to the offense for a
33 party harmed by a juvenile. (~~((Restitution shall))~~) "Community
34 compensation" does not include reimbursement for damages for mental
35 anguish, pain and suffering, or other intangible losses. Nothing in
36 this chapter shall limit or replace civil remedies or defenses
37 available to (~~(the victim)~~) parties harmed by juveniles or the
38 offender. All parties harmed by juveniles shall have access to the
39 community compensation program as provided in section 4 of this act;

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

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

11 (a) Physical restraint; or

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

15 (31) "Risk assessment tool" means the statistically valid tool
16 used by the department to inform release or placement decisions
17 related to security level, release within the sentencing range,
18 community facility eligibility, community transition services
19 eligibility, and parole. The "risk assessment tool" is used by the
20 department to predict the likelihood of successful reentry and future
21 criminal behavior;

22 (32) "Screening" means a process that is designed to identify a
23 child who is at risk of having mental health, substance abuse, or co-
24 occurring mental health and substance abuse disorders that warrant
25 immediate attention, intervention, or more comprehensive assessment.
26 A screening may be undertaken with or without the administration of a
27 formal instrument;

28 (33) "Secretary" means the secretary of the department;

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

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

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

38 (37) "Surety" means an entity licensed under state insurance laws
39 or by the state department of licensing, to write corporate,
40 property, or probation bonds within the state, and justified and

1 approved by the superior court of the county having jurisdiction of
2 the case;

3 (38) "Transportation" means the conveying, by any means, of an
4 incarcerated pregnant youth from the institution or detention
5 facility to another location from the moment she leaves the
6 institution or detention facility to the time of arrival at the other
7 location, and includes the escorting of the pregnant incarcerated
8 youth from the institution or detention facility to a transport
9 vehicle and from the vehicle to the other location;

10 (39) "Violation" means an act or omission, which if committed by
11 an adult, must be proven beyond a reasonable doubt, and is punishable
12 by sanctions which do not include incarceration;

13 (40) "Violent offense" means a violent offense as defined in RCW
14 9.94A.030;

15 (41) "Youth court" means a diversion unit under the supervision
16 of the juvenile court.

17 **Sec. 11.** RCW 13.40.020 and 2021 c 328 s 5 are each amended to
18 read as follows:

19 For the purposes of this chapter:

20 (1) "Assessment" means an individualized examination of a child
21 to determine the child's psychosocial needs and problems, including
22 the type and extent of any mental health, substance abuse, or co-
23 occurring mental health and substance abuse disorders, and
24 recommendations for treatment. "Assessment" includes, but is not
25 limited to, drug and alcohol evaluations, psychological and
26 psychiatric evaluations, records review, clinical interview, and
27 administration of a formal test or instrument;

28 (2) "Community-based rehabilitation" means one or more of the
29 following: Employment; attendance of information classes; literacy
30 classes; counseling, outpatient substance abuse treatment programs,
31 outpatient mental health programs, anger management classes,
32 education or outpatient treatment programs to prevent animal cruelty,
33 or other services including, when appropriate, restorative justice
34 programs; or attendance at school or other educational programs
35 appropriate for the juvenile as determined by the school district.
36 Placement in community-based rehabilitation programs is subject to
37 available funds;

38 (3) "Community-based sanctions" may include ~~((one or more of the~~
39 ~~following):~~

1 ~~(a) A fine, not to exceed \$500;~~

2 ~~(b) Community restitution))~~ community service not to exceed
3 ~~((150))~~ eight hours ~~((of community restitution))~~;

4 (4) "Community ~~((restitution))~~ service" means compulsory service,
5 without compensation, performed for the benefit of the community by
6 the offender as punishment for committing an offense. Community
7 ~~((restitution))~~ service may be performed through public or private
8 organizations or through work crews, or by attending school, work,
9 therapy, treatment, or other prosocial activities as determined by
10 the judge in consultation with the juvenile;

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

24 (a) Community-based sanctions;

25 (b) Community-based rehabilitation;

26 (c) Monitoring and reporting requirements;

27 (d) Posting of a probation bond;

28 (e) Residential treatment, where substance abuse, mental health,
29 and/or co-occurring disorders have been identified in an assessment
30 by a qualified mental health professional, psychologist,
31 psychiatrist, co-occurring disorder specialist, or substance use
32 disorder professional and a funded bed is available. If a child
33 agrees to voluntary placement in a state-funded long-term evaluation
34 and treatment facility, the case must follow the existing placement
35 procedure including consideration of less restrictive treatment
36 options and medical necessity.

37 (i) A court may order residential treatment after consideration
38 and findings regarding whether:

39 (A) The referral is necessary to rehabilitate the child;

40 (B) The referral is necessary to protect the public or the child;

1 (C) The referral is in the child's best interest;

2 (D) The child has been given the opportunity to engage in less
3 restrictive treatment and has been unable or unwilling to comply; and

4 (E) Inpatient treatment is the least restrictive action
5 consistent with the child's needs and circumstances.

6 (ii) In any case where a court orders a child to inpatient
7 treatment under this section, the court must hold a review hearing no
8 later than 60 days after the youth begins inpatient treatment, and
9 every 30 days thereafter, as long as the youth is in inpatient
10 treatment;

11 (6) "Confinement" means physical custody by the department of
12 children, youth, and families in a facility operated by or pursuant
13 to a contract with the state, or physical custody in a detention
14 facility operated by or pursuant to a contract with any county. The
15 county may operate or contract with vendors to operate county
16 detention facilities. The department may operate or contract to
17 operate detention facilities for juveniles committed to the
18 department. Pretrial confinement or confinement of less than 31 days
19 imposed as part of a disposition or modification order may be served
20 consecutively or intermittently, in the discretion of the court;

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

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

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

30 (b) The criminal complaint was diverted by a prosecutor pursuant
31 to the provisions of this chapter on agreement of the respondent and
32 after an advisement to the respondent that the criminal complaint
33 would be considered as part of the respondent's criminal history. A
34 successfully completed deferred adjudication that was entered before
35 July 1, 1998, or a deferred disposition shall not be considered part
36 of the respondent's criminal history;

37 (9) "Custodial interrogation" means express questioning or other
38 actions or words by a law enforcement officer which are reasonably
39 likely to elicit an incriminating response from an individual and

1 occurs when reasonable individuals in the same circumstances would
2 consider themselves in custody;

3 (10) "Department" means the department of children, youth, and
4 families;

5 (11) "Detention facility" means a county facility, paid for by
6 the county, for the physical confinement of a juvenile alleged to
7 have committed an offense or an adjudicated offender subject to a
8 disposition or modification order. "Detention facility" includes
9 county group homes, inpatient substance abuse programs, juvenile
10 basic training camps, and electronic monitoring;

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

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

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

34 (15) "Intensive supervision program" means a parole program that
35 requires intensive supervision and monitoring, offers an array of
36 individualized treatment and transitional services, and emphasizes
37 community involvement and support in order to reduce the likelihood a
38 juvenile offender will commit further offenses;

39 (16) "Juvenile," "youth," and "child" mean any individual who is
40 under the chronological age of 18 years and who has not been

1 previously transferred to adult court pursuant to RCW 13.40.110,
2 unless the individual was convicted of a lesser charge or acquitted
3 of the charge for which he or she was previously transferred pursuant
4 to RCW 13.40.110 or who is not otherwise under adult court
5 jurisdiction;

6 (17) "Juvenile offender" means any juvenile who has been found by
7 the juvenile court to have committed an offense, including a person
8 18 years of age or older over whom jurisdiction has been extended
9 under RCW 13.40.300;

10 (18) "Labor" means the period of time before a birth during which
11 contractions are of sufficient frequency, intensity, and duration to
12 bring about effacement and progressive dilation of the cervix;

13 (19) "Local sanctions" means one or more of the following: (a)
14 0-30 days of confinement; (b) 0-12 months of community supervision;
15 or (c) (~~0-150~~) 0-8 hours of community (~~restitution; or (d) \$0-\$500~~
16 ~~fine~~) service;

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

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

29 (22) "Offense" means an act designated a violation or a crime if
30 committed by an adult under the law of this state, under any
31 ordinance of any city or county of this state, under any federal law,
32 or under the law of another state if the act occurred in that state;

33 (23) "Physical restraint" means the use of any bodily force or
34 physical intervention to control a juvenile offender or limit a
35 juvenile offender's freedom of movement in a way that does not
36 involve a mechanical restraint. Physical restraint does not include
37 momentary periods of minimal physical restriction by direct person-
38 to-person contact, without the aid of mechanical restraint,
39 accomplished with limited force and designed to:

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

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

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

6 (24) "Postpartum recovery" means (a) the entire period a woman or
7 youth is in the hospital, birthing center, or clinic after giving
8 birth and (b) an additional time period, if any, a treating physician
9 determines is necessary for healing after the youth leaves the
10 hospital, birthing center, or clinic;

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

18 (26) "Respondent" means a juvenile who is alleged or proven to
19 have committed an offense;

20 (27) (~~("Restitution")~~) "Community compensation" means (~~((financial~~
21 ~~reimbursement by the offender to the victim, and shall be limited to~~
22 ~~easily))~~) ascertainable damages for injury to or loss of property,
23 actual expenses incurred for medical treatment for physical injury to
24 persons, lost wages resulting from physical injury, and costs of
25 (~~(the victim's)~~) counseling reasonably related to the offense for a
26 party harmed by a juvenile. (~~(Restitution shall)~~) "Community
27 compensation" does not include reimbursement for damages for mental
28 anguish, pain and suffering, or other intangible losses. Nothing in
29 this chapter shall limit or replace civil remedies or defenses
30 available to (~~(the victim)~~) parties harmed by juveniles or the
31 offender. All parties harmed by juveniles shall have access to the
32 community compensation program as provided in section 4 of this act;

33 (28) "Restorative justice" means practices, policies, and
34 programs informed by and sensitive to the needs of (~~(crime victims)~~)
35 parties harmed by juveniles that are designed to encourage offenders
36 to accept responsibility for repairing the harm caused by their
37 offense by providing safe and supportive opportunities for voluntary
38 participation and communication between (~~(the victim)~~) a party harmed
39 by the juvenile, the (~~(offender)~~) juvenile, their families, and
40 relevant community members;

1 (29) "Restraints" means anything used to control the movement of
2 a person's body or limbs and includes:
3 (a) Physical restraint; or
4 (b) Mechanical device including but not limited to: Metal
5 handcuffs, plastic ties, ankle restraints, leather cuffs, other
6 hospital-type restraints, tasers, or batons;
7 (30) "Screening" means a process that is designed to identify a
8 child who is at risk of having mental health, substance abuse, or co-
9 occurring mental health and substance abuse disorders that warrant
10 immediate attention, intervention, or more comprehensive assessment.
11 A screening may be undertaken with or without the administration of a
12 formal instrument;
13 (31) "Secretary" means the secretary of the department;
14 (32) "Services" means services which provide alternatives to
15 incarceration for those juveniles who have pleaded or been
16 adjudicated guilty of an offense or have signed a diversion agreement
17 pursuant to this chapter;
18 (33) "Sex offense" means an offense defined as a sex offense in
19 RCW 9.94A.030;
20 (34) "Sexual motivation" means that one of the purposes for which
21 the respondent committed the offense was for the purpose of the
22 respondent's sexual gratification;
23 (35) "Surety" means an entity licensed under state insurance laws
24 or by the state department of licensing, to write corporate,
25 property, or probation bonds within the state, and justified and
26 approved by the superior court of the county having jurisdiction of
27 the case;
28 (36) "Transportation" means the conveying, by any means, of an
29 incarcerated pregnant youth from the institution or detention
30 facility to another location from the moment she leaves the
31 institution or detention facility to the time of arrival at the other
32 location, and includes the escorting of the pregnant incarcerated
33 youth from the institution or detention facility to a transport
34 vehicle and from the vehicle to the other location;
35 (37) "Violation" means an act or omission, which if committed by
36 an adult, must be proven beyond a reasonable doubt, and is punishable
37 by sanctions which do not include incarceration;
38 (38) "Violent offense" means a violent offense as defined in RCW
39 9.94A.030;

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

3 **Sec. 12.** RCW 13.40.060 and 2005 c 165 s 1 are each amended to
4 read as follows:

5 (1) All actions under this chapter shall be commenced and tried
6 in the county where any element of the offense was committed except
7 as otherwise specially provided by statute. In cases in which
8 diversion is provided by statute, venue is in the county in which the
9 juvenile resides or in the county in which any element of the offense
10 was committed.

11 (2) (a) The court upon motion of any party or upon its own motion
12 may, at any time, transfer a proceeding to another juvenile court
13 when there is reason to believe that an impartial proceeding cannot
14 be held in the county in which the proceeding was begun; and

15 (b) A court may transfer a proceeding to another juvenile court
16 following disposition for the purposes of supervision and enforcement
17 of the disposition order.

18 (3) If the court orders a transfer of the proceeding pursuant to
19 subsection (2) (b) of this section:

20 (a) The case and copies of only those legal and social documents
21 pertaining thereto shall be transferred to the county in which the
22 juvenile resides, without regard to whether or not his or her
23 custodial parent resides there, for supervision and enforcement of
24 the disposition order.

25 (b) ~~((If any restitution is yet to be determined, the originating
26 court shall transfer the case to the new county with the exception of
27 the restitution. Venue over restitution shall be retained by the
28 originating court for purposes of establishing a restitution order.
29 Once restitution is determined, the originating county shall then
30 transfer venue over modification and enforcement of the restitution
31 to the new county.~~

32 ~~(e))~~ The court of the receiving county may modify and enforce
33 the disposition order, including restitution.

34 ~~((d) The clerk of the originating county shall maintain the
35 account receivable in the judicial information system and all
36 payments shall be made to the clerk of the originating county.~~

37 ~~(e) Any collection of the offender legal financial obligation
38 shall be managed by the juvenile probation department of the new
39 county while the offender is under juvenile probation supervision, or~~

1 ~~by the clerk of the original county at the conclusion of supervision~~
2 ~~by juvenile probation. The probation department of the new county~~
3 ~~shall notify the clerk of the originating county when they end~~
4 ~~supervision of the offender.~~

5 ~~(f) In cases where a civil judgment has already been established,~~
6 ~~venue may not be transferred to another county.)~~

7 **Sec. 13.** RCW 13.40.077 and 1997 c 338 s 18 are each amended to
8 read as follows:

9 RECOMMENDED PROSECUTING STANDARDS
10 FOR CHARGING AND PLEA DISPOSITIONS

11 INTRODUCTION: These standards are intended solely for the
12 guidance of prosecutors in the state of Washington. They are not
13 intended to, do not, and may not be relied upon to create a right or
14 benefit, substantive or procedural, enforceable at law by a party in
15 litigation with the state.

16 Evidentiary sufficiency.

17 (1) Decision not to prosecute.

18 STANDARD: A prosecuting attorney may decline to prosecute, even
19 though technically sufficient evidence to prosecute exists, in
20 situations where prosecution would serve no public purpose, would
21 defeat the underlying purpose of the law in question, or would result
22 in decreased respect for the law. The decision not to prosecute or
23 divert shall not be influenced by the race, gender, religion, or
24 creed of the suspect.

25 GUIDELINES/COMMENTARY:

26 Examples

27 The following are examples of reasons not to prosecute which
28 could satisfy the standard.

29 (a) Contrary to Legislative Intent - It may be proper to decline
30 to charge where the application of criminal sanctions would be
31 clearly contrary to the intent of the legislature in enacting the
32 particular statute.

33 (b) Antiquated Statute - It may be proper to decline to charge
34 where the statute in question is antiquated in that:

35 (i) It has not been enforced for many years;

36 (ii) Most members of society act as if it were no longer in
37 existence;

1 (iii) It serves no deterrent or protective purpose in today's
2 society; and

3 (iv) The statute has not been recently reconsidered by the
4 legislature.

5 This reason is not to be construed as the basis for declining
6 cases because the law in question is unpopular or because it is
7 difficult to enforce.

8 (c) De Minimis Violation - It may be proper to decline to charge
9 where the violation of law is only technical or insubstantial and
10 where no public interest or deterrent purpose would be served by
11 prosecution.

12 (d) Confinement on Other Charges - It may be proper to decline to
13 charge because the accused has been sentenced on another charge to a
14 lengthy period of confinement; and

15 (i) Conviction of the new offense would not merit any additional
16 direct or collateral punishment;

17 (ii) The new offense is either a misdemeanor or a felony which is
18 not particularly aggravated; and

19 (iii) Conviction of the new offense would not serve any
20 significant deterrent purpose.

21 (e) Pending Conviction on Another Charge - It may be proper to
22 decline to charge because the accused is facing a pending prosecution
23 in the same or another county; and

24 (i) Conviction of the new offense would not merit any additional
25 direct or collateral punishment;

26 (ii) Conviction in the pending prosecution is imminent;

27 (iii) The new offense is either a misdemeanor or a felony which
28 is not particularly aggravated; and

29 (iv) Conviction of the new offense would not serve any
30 significant deterrent purpose.

31 (f) High Disproportionate Cost of Prosecution - It may be proper
32 to decline to charge where the cost of locating or transporting, or
33 the burden on, prosecution witnesses is highly disproportionate to
34 the importance of prosecuting the offense in question. The reason
35 should be limited to minor cases and should not be relied upon in
36 serious cases.

37 (g) Improper Motives of Complainant - It may be proper to decline
38 charges because the motives of the complainant are improper and
39 prosecution would serve no public purpose, would defeat the

1 underlying purpose of the law in question, or would result in
2 decreased respect for the law.

3 (h) Immunity - It may be proper to decline to charge where
4 immunity is to be given to an accused in order to prosecute another
5 where the accused information or testimony will reasonably lead to
6 the conviction of others who are responsible for more serious
7 criminal conduct or who represent a greater danger to the public
8 interest.

9 (i) ((Victim)) Party Harmed By Juvenile Request - It may be
10 proper to decline to charge because the ((victim)) party harmed by
11 the juvenile requests that no criminal charges be filed and the case
12 involves the following crimes or situations:

13 (i) Assault cases where the ((victim)) party harmed by the
14 juvenile has suffered little or no injury;

15 (ii) Crimes against property, not involving violence, where no
16 major loss was suffered;

17 (iii) Where doing so would not jeopardize the safety of society.

18 Care should be taken to insure that the ((victim's)) request of
19 the party harmed by the juvenile is freely made and is not the
20 product of threats or pressure by the accused.

21 The presence of these factors may also justify the decision to
22 dismiss a prosecution which has been commenced.

23 Notification

24 The prosecutor is encouraged to notify the ((victim)) party
25 harmed by the juvenile, when practical, and the law enforcement
26 personnel, of the decision not to prosecute.

27 (2) Decision to prosecute.

28 STANDARD:

29 Crimes against persons will be filed if sufficient admissible
30 evidence exists, which, when considered with the most plausible,
31 reasonably foreseeable defense that could be raised under the
32 evidence, would justify conviction by a reasonable and objective fact
33 finder. With regard to offenses prohibited by RCW 9A.44.040,
34 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086,
35 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling
36 agreements or diversions intended to place the accused in a program
37 of treatment or counseling, so that treatment, if determined to be
38 beneficial, can be proved under RCW 13.40.160(4).

39 Crimes against property/other crimes will be filed if the
40 admissible evidence is of such convincing force as to make it

1 probable that a reasonable and objective fact finder would convict
2 after hearing all the admissible evidence and the most plausible
3 defense that could be raised.

4 The categorization of crimes for these charging standards shall
5 be the same as found in RCW 9.94A.411(2).

6 The decision to prosecute or use diversion shall not be
7 influenced by the race, gender, religion, or creed of the respondent.

8 (3) Selection of Charges/Degree of Charge

9 (a) The prosecutor should file charges which adequately describe
10 the nature of the respondent's conduct. Other offenses may be charged
11 only if they are necessary to ensure that the charges(~~(+~~

12 ~~(i) Will~~) will significantly enhance the strength of the state's
13 case at trial(~~(+ or~~

14 ~~(ii) Will result in restitution to all victims)~~).

15 (b) The prosecutor should not overcharge to obtain a guilty plea.

16 Overcharging includes:

- 17 (i) Charging a higher degree;
- 18 (ii) Charging additional counts.

19 This standard is intended to direct prosecutors to charge those
20 crimes which demonstrate the nature and seriousness of a respondent's
21 criminal conduct, but to decline to charge crimes which are not
22 necessary to such an indication. Crimes which do not merge as a
23 matter of law, but which arise from the same course of conduct, do
24 not all have to be charged.

25 (4) Police Investigation

26 A prosecuting attorney is dependent upon law enforcement agencies
27 to conduct the necessary factual investigation which must precede the
28 decision to prosecute. The prosecuting attorney shall ensure that a
29 thorough factual investigation has been conducted before a decision
30 to prosecute is made. In ordinary circumstances the investigation
31 should include the following:

- 32 (a) The interviewing of all material witnesses, together with the
33 obtaining of written statements whenever possible;
- 34 (b) The completion of necessary laboratory tests; and
- 35 (c) The obtaining, in accordance with constitutional
36 requirements, of the suspect's version of the events.

37 If the initial investigation is incomplete, a prosecuting
38 attorney should insist upon further investigation before a decision
39 to prosecute is made, and specify what the investigation needs to
40 include.

1 (5) Exceptions

2 In certain situations, a prosecuting attorney may authorize
3 filing of a criminal complaint before the investigation is complete
4 if:

5 (a) Probable cause exists to believe the suspect is guilty; and

6 (b) The suspect presents a danger to the community or is likely
7 to flee if not apprehended; or

8 (c) The arrest of the suspect is necessary to complete the
9 investigation of the crime.

10 In the event that the exception to the standard is applied, the
11 prosecuting attorney shall obtain a commitment from the law
12 enforcement agency involved to complete the investigation in a timely
13 manner. If the subsequent investigation does not produce sufficient
14 evidence to meet the normal charging standard, the complaint should
15 be dismissed.

16 (6) Investigation Techniques

17 The prosecutor should be fully advised of the investigatory
18 techniques that were used in the case investigation including:

19 (a) Polygraph testing;

20 (b) Hypnosis;

21 (c) Electronic surveillance;

22 (d) Use of informants.

23 (7) Prefiling Discussions with Defendant

24 Discussions with the defendant or his or her representative
25 regarding the selection or disposition of charges may occur prior to
26 the filing of charges, and potential agreements can be reached.

27 (8) Plea dispositions:

28 STANDARD

29 (a) Except as provided in subsection (2) of this section, a
30 respondent will normally be expected to plead guilty to the charge or
31 charges which adequately describe the nature of his or her criminal
32 conduct or go to trial.

33 (b) In certain circumstances, a plea agreement with a respondent
34 in exchange for a plea of guilty to a charge or charges that may not
35 fully describe the nature of his or her criminal conduct may be
36 necessary and in the public interest. Such situations may include the
37 following:

38 (i) Evidentiary problems which make conviction of the original
39 charges doubtful;

1 (ii) The respondent's willingness to cooperate in the
2 investigation or prosecution of others whose criminal conduct is more
3 serious or represents a greater public threat;

4 (iii) A request by the ~~((victim))~~ party harmed by the juvenile
5 when it is not the result of pressure from the respondent;

6 (iv) The discovery of facts which mitigate the seriousness of the
7 respondent's conduct;

8 (v) The correction of errors in the initial charging decision;

9 (vi) The respondent's history with respect to criminal activity;

10 (vii) The nature and seriousness of the offense or offenses
11 charged;

12 (viii) The probable effect of witnesses.

13 (c) No plea agreement shall be influenced by the race, gender,
14 religion, or creed of the respondent. This includes but is not
15 limited to the prosecutor's decision to utilize such disposition
16 alternatives as the Special Sex Offender Disposition Alternative, the
17 Chemical Dependency Disposition Alternative, and manifest injustice.

18 (9) Disposition recommendations:

19 STANDARD

20 The prosecutor may reach an agreement regarding disposition
21 recommendations.

22 The prosecutor shall not agree to withhold relevant information
23 from the court concerning the plea agreement.

24 **Sec. 14.** RCW 13.40.080 and 2022 c 34 s 1 are each amended to
25 read as follows:

26 (1) A diversion agreement shall be a contract between a juvenile
27 accused of an offense and a diversion unit whereby the juvenile
28 agrees to fulfill certain conditions in lieu of prosecution. Such
29 agreements may be entered into only after the prosecutor, or
30 probation counselor pursuant to this chapter, has determined that
31 probable cause exists to believe that a crime has been committed and
32 that the juvenile committed it. Such agreements shall be entered into
33 as expeditiously as possible.

34 (2) (a) A diversion agreement shall be limited to one or more of
35 the following:

36 ~~((a))~~ (i) Community ~~((restitution))~~ service not to exceed ~~((one~~
37 ~~hundred fifty))~~ eight hours ~~((, not to be performed during school~~
38 ~~hours if the juvenile is attending school))~~;

1 ~~((b) Restitution limited to the amount of actual loss incurred~~
2 ~~by any victim, excluding restitution owed to any insurance provider~~
3 ~~under Title 48 RCW;~~

4 ~~(e))~~ (ii) Attendance at up to ten hours of counseling and/or up
5 to twenty hours of positive youth development, educational or
6 informational sessions at a community agency. The educational or
7 informational sessions may include sessions relating to respect for
8 self, others, and authority; ~~((victim))~~ harmed party awareness;
9 accountability; self-worth; responsibility; work ethics; good
10 citizenship; literacy; and life skills. If an assessment identifies
11 mental health or chemical dependency needs, a youth may access up to
12 thirty hours of counseling. The counseling sessions may include
13 services demonstrated to improve behavioral health and reduce
14 recidivism. For purposes of this section, "community agency" may also
15 mean a community-based nonprofit organization, a physician, a
16 counselor, a school, or a treatment provider, if approved by the
17 diversion unit. The state shall not be liable for costs resulting
18 from the diversion unit exercising the option to permit diversion
19 agreements to mandate attendance at up to thirty hours of counseling
20 and/or up to twenty hours of educational or informational sessions;

21 ~~((d))~~ (iii) Requirements to remain during specified hours at
22 home, school, or work, and restrictions on leaving or entering
23 specified geographical areas; and

24 ~~((e))~~ (iv) Upon request of any ~~((victim))~~ party harmed by a
25 juvenile or witness, requirements to refrain from any contact with
26 ~~((victims))~~ parties harmed by or witnesses of offenses committed by
27 the juvenile.

28 (b) Parties harmed by the offenses committed by a juvenile are
29 eligible to collect compensation through the community compensation
30 program, as provided in section 4 of this act.

31 (3) Notwithstanding the provisions of subsection (2) of this
32 section, youth courts are not limited to the conditions imposed by
33 subsection (2) of this section in imposing sanctions on juveniles
34 pursuant to RCW 13.40.630.

35 (4) In assessing periods of community ~~((restitution))~~ service to
36 be performed ~~((and restitution to be paid by a juvenile who has~~
37 ~~entered into a diversion agreement)),~~ the court officer to whom this
38 task is assigned shall consult with the juvenile's custodial parent
39 or parents or guardian. To the extent possible, the court officer
40 shall advise the ~~((victims of))~~ parties harmed by the juvenile

1 offender of the diversion process, offer ~~((victim))~~ impact letter
2 forms and ~~((restitution claim forms))~~ instructions for collecting
3 compensation through the community compensation program as provided
4 in section 4 of this act, and involve members of the community. Such
5 members of the community may meet with the juvenile and may advise
6 the court officer as to the terms of the diversion agreement and may
7 supervise the juvenile in carrying out its terms.

8 (5) (a) A diversion agreement may not exceed a period of six
9 months and may include a period extending beyond the eighteenth
10 birthday of the divertee.

11 (b) If additional time is necessary for the juvenile to complete
12 the terms of the agreement ~~((or restitution to a victim))~~, the time
13 period limitations of this subsection may be extended by an
14 additional six months at the request of the juvenile.

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

1 ~~(d)~~) A diversion agreement may be completed by the juvenile any
2 time prior to an order terminating the agreement.

3 (6) The juvenile shall retain the right to be referred to the
4 court at any time prior to the signing of the diversion agreement.

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

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

12 (b) Violation of the terms of the agreement shall be the only
13 grounds for termination;

14 (c) No divertee may be terminated from a diversion program
15 without being given a court hearing, which hearing shall be preceded
16 by:

17 (i) Written notice of alleged violations of the conditions of the
18 diversion program; and

19 (ii) Disclosure of all evidence to be offered against the
20 divertee;

21 (d) The hearing shall be conducted by the juvenile court and
22 shall include:

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

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

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

28 (iv) Demonstration by evidence that the divertee has
29 substantially violated the terms of his or her diversion agreement;

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

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

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

36 (8) The diversion unit shall, subject to available funds, be
37 responsible for providing interpreters when juveniles need
38 interpreters to effectively communicate during diversion unit
39 hearings or negotiations.

1 (9) The diversion unit shall be responsible for advising a
2 divertee of his or her rights as provided in this chapter.

3 (10) The diversion unit may refer a juvenile to a restorative
4 justice program, community-based counseling, or treatment programs.

5 (11) The right to counsel shall inure prior to the initial
6 interview for purposes of advising the juvenile as to whether he or
7 she desires to participate in the diversion process or to appear in
8 the juvenile court. The juvenile may be represented by counsel at any
9 critical stage of the diversion process, including intake interviews
10 and termination hearings. The juvenile shall be fully advised at the
11 intake of his or her right to an attorney and of the relevant
12 services an attorney can provide. For the purpose of this section,
13 intake interviews mean all interviews regarding the diversion
14 agreement process.

15 The juvenile shall be advised that a diversion agreement shall
16 constitute a part of the juvenile's criminal history as defined by
17 RCW 13.40.020(8). A signed acknowledgment of such advisement shall be
18 obtained from the juvenile, and the document shall be maintained by
19 the diversion unit together with the diversion agreement, and a copy
20 of both documents shall be delivered to the prosecutor if requested
21 by the prosecutor. The supreme court shall promulgate rules setting
22 forth the content of such advisement in simple language.

23 (12) When a juvenile enters into a diversion agreement, the
24 juvenile court may receive only the following information for
25 dispositional purposes:

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

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

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

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

31 (e) The facts of the alleged offense.

32 (13) A diversion unit may refuse to enter into a diversion
33 agreement with a juvenile. When a diversion unit refuses to enter a
34 diversion agreement with a juvenile, it shall immediately refer such
35 juvenile to the court for action and shall forward to the court the
36 criminal complaint and a detailed statement of its reasons for
37 refusing to enter into a diversion agreement. The diversion unit
38 shall also immediately refer the case to the prosecuting attorney for
39 action if such juvenile violates the terms of the diversion
40 agreement.

1 (14) A diversion unit may, in instances where it determines that
2 the act or omission of an act for which a juvenile has been referred
3 to it involved no ((victim)) harmed party, or where it determines
4 that the juvenile referred to it has no prior criminal history and is
5 alleged to have committed an illegal act involving no threat of or
6 instance of actual physical harm and involving not more than fifty
7 dollars in property loss or damage and that there is no loss
8 outstanding to the person or firm suffering such damage or loss,
9 counsel and release or release such a juvenile without entering into
10 a diversion agreement. A diversion unit's authority to counsel and
11 release a juvenile under this subsection includes the authority to
12 refer the juvenile to community-based counseling or treatment
13 programs or a restorative justice program. Any juvenile released
14 under this subsection shall be advised that the act or omission of
15 any act for which he or she had been referred shall constitute a part
16 of the juvenile's criminal history as defined by RCW 13.40.020(8). A
17 signed acknowledgment of such advisement shall be obtained from the
18 juvenile, and the document shall be maintained by the unit, and a
19 copy of the document shall be delivered to the prosecutor if
20 requested by the prosecutor. The supreme court shall promulgate rules
21 setting forth the content of such advisement in simple language. A
22 juvenile determined to be eligible by a diversion unit for release as
23 provided in this subsection shall retain the same right to counsel
24 and right to have his or her case referred to the court for formal
25 action as any other juvenile referred to the unit.

26 (15) A diversion unit may supervise the fulfillment of a
27 diversion agreement entered into before the juvenile's eighteenth
28 birthday and which includes a period extending beyond the divertee's
29 eighteenth birthday.

30 ~~((If restitution required by a diversion agreement cannot~~
31 ~~reasonably be paid due to a change of circumstance, the diversion~~
32 ~~agreement may be modified at the request of the divertee and with the~~
33 ~~concurrence of the diversion unit to convert unpaid restitution into~~
34 ~~community restitution. The modification of the diversion agreement~~
35 ~~shall be in writing and signed by the divertee and the diversion~~
36 ~~unit. The number of hours of community restitution in lieu of a~~
37 ~~monetary penalty shall be converted at the rate of the prevailing~~
38 ~~state minimum wage per hour.)) A juvenile, or the parent, guardian,
39 or other person having custody of the juvenile shall not be required~~

1 to pay the cost of any program or treatment ordered by the court
2 under this section.

3 **Sec. 15.** RCW 13.40.127 and 2016 c 136 s 3 are each amended to
4 read as follows:

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

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

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

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

10 (d) Has two or more adjudications.

11 (2) The juvenile court may, upon motion at least fourteen days
12 before commencement of trial and, after consulting the juvenile's
13 custodial parent or parents or guardian and with the consent of the
14 juvenile, continue the case for disposition for a period not to
15 exceed one year from the date the juvenile is found guilty. In all
16 cases where the juvenile is eligible for a deferred disposition,
17 there shall be a strong presumption that the deferred disposition
18 will be granted. The court may waive the fourteen-day period anytime
19 before the commencement of trial for good cause.

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

21 (a) Stipulate to the admissibility of the facts contained in the
22 written police report;

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

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

28 (d) Acknowledge the direct consequences of being found guilty and
29 the direct consequences that will happen if an order of disposition
30 is entered.

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

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

36 (5) Any juvenile granted a deferral of disposition under this
37 section shall be placed under community supervision. The court may
38 impose any conditions of supervision that it deems appropriate
39 including posting a probation bond. (~~Payment of restitution under~~

1 ~~RCW 13.40.190 shall be a condition of community supervision under~~
2 ~~this section.)~~)

3 The court may require a juvenile offender convicted of animal
4 cruelty in the first degree to submit to a mental health evaluation
5 to determine if the offender would benefit from treatment and such
6 intervention would promote the safety of the community. After
7 consideration of the results of the evaluation, as a condition of
8 community supervision, the court may order the offender to attend
9 treatment to address issues pertinent to the offense.

10 The court may require the juvenile to undergo a mental health or
11 substance abuse assessment, or both. If the assessment identifies a
12 need for treatment, conditions of supervision may include treatment
13 for the assessed need that has been demonstrated to improve
14 behavioral health and reduce recidivism.

15 The court shall require a juvenile granted a deferral of
16 disposition for unlawful possession of a firearm in violation of RCW
17 9.41.040 to participate in a qualifying program as described in RCW
18 13.40.193(2)(b), when available, unless the court makes a written
19 finding based on the outcome of the juvenile court risk assessment
20 that participation in a qualifying program would not be appropriate.

21 (6) A parent who signed for a probation bond has the right to
22 notify the counselor if the juvenile fails to comply with the bond or
23 conditions of supervision. The counselor shall notify the court and
24 surety of any failure to comply. A surety shall notify the court of
25 the juvenile's failure to comply with the probation bond. The state
26 shall bear the burden to prove, by a preponderance of the evidence,
27 that the juvenile has failed to comply with the terms of community
28 supervision.

29 (7)(a) Anytime prior to the conclusion of the period of
30 supervision, the prosecutor or the juvenile's juvenile court
31 community supervision counselor may file a motion with the court
32 requesting the court revoke the deferred disposition based on the
33 juvenile's lack of compliance or treat the juvenile's lack of
34 compliance as a violation pursuant to RCW 13.40.200.

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

37 (i) Revoke the deferred disposition and enter an order of
38 disposition; or

39 (ii) Impose sanctions for the violation pursuant to RCW
40 13.40.200.

1 (8) At any time following deferral of disposition the court may,
2 following a hearing, continue supervision for an additional one-year
3 period for good cause.

4 (9) (a) At the conclusion of the period of supervision, the court
5 shall determine whether the juvenile is entitled to dismissal of the
6 deferred disposition only when the court finds:

7 (i) The deferred disposition has not been previously revoked;
8 (ii) The juvenile has completed the terms of supervision; and
9 (iii) There are no pending motions concerning lack of compliance
10 pursuant to subsection (7) of this section (~~;~~ and

11 ~~(iv) The juvenile has either paid the full amount of restitution,~~
12 ~~or, made a good faith effort to pay the full amount of restitution~~
13 ~~during the period of supervision)).~~

14 (b) If the court finds the juvenile is entitled to dismissal of
15 the deferred disposition pursuant to (a) of this subsection, the
16 juvenile's conviction shall be vacated and the court shall dismiss
17 the case with prejudice, except that a conviction under RCW 16.52.205
18 shall not be vacated. (~~Whenever a case is dismissed with restitution~~
19 ~~still owing, the court shall enter a restitution order pursuant to~~
20 ~~RCW 7.80.130 for any unpaid restitution. Jurisdiction to enforce~~
21 ~~payment and modify terms of the restitution order shall be the same~~
22 ~~as those set forth in RCW 7.80.130.))~~

23 (c) If the court finds the juvenile is not entitled to dismissal
24 of the deferred disposition pursuant to (a) of this subsection, the
25 court shall revoke the deferred disposition and enter an order of
26 disposition. A deferred disposition shall remain a conviction unless
27 the case is dismissed and the conviction is vacated pursuant to (b)
28 of this subsection or sealed pursuant to RCW 13.50.260.

29 (10) (a) (i) Any time the court vacates a conviction pursuant to
30 subsection (9) of this section, (~~if the juvenile is eighteen years~~
31 ~~of age or older and the full amount of restitution owing to the~~
32 ~~individual victim named in the restitution order, excluding~~
33 ~~restitution owed to any insurance provider authorized under Title 48~~
34 ~~RCW has been paid,)) the court shall enter a written order sealing
35 the case.~~

36 (ii) Any time the court vacates a conviction pursuant to
37 subsection (9) of this section, if the juvenile is not eighteen years
38 of age or older (~~and full restitution ordered has been paid~~), the
39 court shall schedule an administrative sealing hearing to take place
40 no later than thirty days after the respondent's eighteenth birthday,

1 at which time the court shall enter a written order sealing the case.
2 The respondent's presence at the administrative sealing hearing is
3 not required.

4 (iii) Any deferred disposition vacated prior to June 7, 2012, is
5 not subject to sealing under this subsection.

6 (b) Nothing in this subsection shall preclude a juvenile from
7 petitioning the court to have the records of his or her deferred
8 dispositions sealed under RCW 13.50.260.

9 (c) Records sealed under this provision shall have the same legal
10 status as records sealed under RCW 13.50.260.

11 **Sec. 16.** RCW 13.40.150 and 1998 c 86 s 1 are each amended to
12 read as follows:

13 (1) In disposition hearings all relevant and material evidence,
14 including oral and written reports, may be received by the court and
15 may be relied upon to the extent of its probative value, even though
16 such evidence may not be admissible in a hearing on the information.
17 The youth or the youth's counsel and the prosecuting attorney shall
18 be afforded an opportunity to examine and controvert written reports
19 so received and to cross-examine individuals making reports when such
20 individuals are reasonably available, but sources of confidential
21 information need not be disclosed. The prosecutor and counsel for the
22 juvenile may submit recommendations for disposition.

23 (2) For purposes of disposition:

24 (a) Violations which are current offenses count as misdemeanors;

25 (b) Violations may not count as part of the offender's criminal
26 history;

27 (c) In no event may a disposition for a violation include
28 confinement.

29 (3) Before entering a dispositional order as to a respondent
30 found to have committed an offense, the court shall hold a
31 disposition hearing, at which the court shall:

32 (a) Consider the facts supporting the allegations of criminal
33 conduct by the respondent;

34 (b) Consider information and arguments offered by parties and
35 their counsel;

36 (c) Consider any predisposition reports;

37 (d) Consult with the respondent's parent, guardian, or custodian
38 on the appropriateness of dispositional options under consideration

1 and afford the respondent and the respondent's parent, guardian, or
2 custodian an opportunity to speak in the respondent's behalf;

3 (e) Allow the ~~((victim))~~ party harmed by the juvenile or a
4 representative of the ~~((victim))~~ party harmed by the juvenile and an
5 investigative law enforcement officer to speak;

6 ~~((Determine the amount of restitution owing to the victim, if
7 any, or set a hearing for a later date not to exceed one hundred
8 eighty days from the date of the disposition hearing to determine the
9 amount, except that the court may continue the hearing beyond the one
10 hundred eighty days for good cause;~~

11 ~~(g))~~ Determine the respondent's offender score;

12 ~~((h))~~ (g) Consider whether or not any of the following
13 mitigating factors exist:

14 (i) The respondent's conduct neither caused nor threatened
15 serious bodily injury or the respondent did not contemplate that his
16 or her conduct would cause or threaten serious bodily injury;

17 (ii) The respondent acted under strong and immediate provocation;

18 (iii) The respondent was suffering from a mental or physical
19 condition that significantly reduced his or her culpability for the
20 offense though failing to establish a defense;

21 (iv) Prior to his or her detection, the respondent compensated or
22 made a good faith attempt to compensate the ~~((victim))~~ harmed party
23 for the injury or loss sustained; and

24 (v) There has been at least one year between the respondent's
25 current offense and any prior criminal offense;

26 ~~((i))~~ (h) Consider whether or not any of the following
27 aggravating factors exist:

28 (i) In the commission of the offense, or in flight therefrom, the
29 respondent inflicted or attempted to inflict serious bodily injury to
30 another;

31 (ii) The offense was committed in an especially heinous, cruel,
32 or depraved manner;

33 (iii) The ~~((victim or victims))~~ party or parties harmed by the
34 juvenile were particularly vulnerable;

35 (iv) The respondent has a recent criminal history or has failed
36 to comply with conditions of a recent dispositional order or
37 diversion agreement;

38 (v) The current offense included a finding of sexual motivation
39 pursuant to RCW 13.40.135;

1 (vi) The respondent was the leader of a criminal enterprise
2 involving several persons;

3 (vii) There are other complaints which have resulted in diversion
4 or a finding or plea of guilty but which are not included as criminal
5 history; and

6 (viii) The standard range disposition is clearly too lenient
7 considering the seriousness of the juvenile's prior adjudications.

8 (4) The following factors may not be considered in determining
9 the punishment to be imposed:

10 (a) The sex of the respondent;

11 (b) The race or color of the respondent or the respondent's
12 family;

13 (c) The creed or religion of the respondent or the respondent's
14 family;

15 (d) The economic or social class of the respondent or the
16 respondent's family; and

17 (e) Factors indicating that the respondent may be or is a
18 dependent child within the meaning of this chapter.

19 (5) A court may not commit a juvenile to a state institution
20 solely because of the lack of facilities, including treatment
21 facilities, existing in the community.

22 **Sec. 17.** RCW 13.40.162 and 2020 c 249 s 1 are each amended to
23 read as follows:

24 (1) A juvenile offender is eligible for the special sex offender
25 disposition alternative when:

26 (a) The offender is found to have committed a sex offense, other
27 than a sex offense that is also a serious violent offense as defined
28 by RCW 9.94A.030, and the offender has no history of a prior sex
29 offense; or

30 (b) The offender is found to have committed assault in the fourth
31 degree with sexual motivation, and the offender has no history of a
32 prior sex offense.

33 (2) If the court finds the offender is eligible for this
34 alternative, the court, on its own motion or the motion of the state
35 or the respondent, may order an examination to determine whether the
36 respondent is amenable to treatment.

37 (a) The report of the examination shall include at a minimum the
38 following:

- 1 (i) The respondent's version of the facts and the official
2 version of the facts;
3 (ii) The respondent's offense history;
4 (iii) An assessment of problems in addition to alleged deviant
5 behaviors;
6 (iv) The respondent's social, educational, and employment
7 situation;
8 (v) Other evaluation measures used.

9 The report shall set forth the sources of the evaluator's
10 information.

11 (b) The examiner shall assess and report regarding the
12 respondent's amenability to treatment and relative risk to the
13 community. A proposed treatment plan shall be provided and shall
14 include, at a minimum:

- 15 (i) The frequency and type of contact between the offender and
16 therapist;
17 (ii) Specific issues to be addressed in the treatment and
18 description of planned treatment modalities;
19 (iii) Monitoring plans, including any requirements regarding
20 living conditions, lifestyle requirements, and monitoring by family
21 members, legal guardians, or others;
22 (iv) Anticipated length of treatment; and
23 (v) Recommended crime-related prohibitions.

24 (c) The court on its own motion may order, or on a motion by the
25 state shall order, a second examination regarding the offender's
26 amenability to treatment. The evaluator shall be selected by the
27 party making the motion. (~~The defendant shall pay the cost of any
28 second examination ordered unless the court finds the defendant to be
29 indigent in which case the state shall pay the cost.~~)

30 (3) After receipt of reports of the examination, the court shall
31 then consider whether the offender and the community will benefit
32 from use of this special sex offender disposition alternative and
33 consider the (~~victim's~~) harmed party's opinion whether the offender
34 should receive a treatment disposition under this section. If the
35 court determines that this special sex offender disposition
36 alternative is appropriate, then the court shall impose a determinate
37 disposition within the standard range for the offense, or if the
38 court concludes, and enters reasons for its conclusions, that such
39 disposition would cause a manifest injustice, the court shall impose
40 a disposition under option D, and the court may suspend the execution

1 of the disposition and place the offender on community supervision
2 for at least two years.

3 (4) As a condition of the suspended disposition, the court may
4 impose the conditions of community supervision and other conditions,
5 including up to thirty days of confinement and requirements that the
6 offender do any one or more of the following:

7 (a) Devote time to a specific education, employment, or
8 occupation;

9 (b) Undergo available outpatient sex offender treatment for up to
10 two years, or inpatient sex offender treatment not to exceed the
11 standard range of confinement for that offense. A community mental
12 health center may not be used for such treatment unless it has an
13 appropriate program designed for sex offender treatment. The
14 respondent shall not change sex offender treatment providers or
15 treatment conditions without first notifying the prosecutor, the
16 probation counselor, and the court, and shall not change providers
17 without court approval after a hearing if the prosecutor or probation
18 counselor object to the change;

19 (c) Remain within prescribed geographical boundaries and notify
20 the court or the probation counselor prior to any change in the
21 offender's address, educational program, or employment;

22 (d) Report to the prosecutor and the probation counselor prior to
23 any change in a sex offender treatment provider. This change shall
24 have prior approval by the court;

25 (e) Report as directed to the court and a probation counselor;

26 (f) ~~((Pay all court-ordered legal financial obligations,~~
27 ~~perform)) Perform community ~~((restitution, or any combination~~
28 ~~thereof)) service; or~~~~

29 ~~((Make restitution to the victim for the cost of any~~
30 ~~counseling reasonably related to the offense; or~~

31 ~~(h))~~ Comply with the conditions of any court-ordered probation
32 bond.

33 (5) If the court orders twenty-four hour, continuous monitoring
34 of the offender while on probation, the court shall include the basis
35 for this condition in its findings.

36 (6) (a) The court must order the offender not to attend the public
37 or approved private elementary, middle, or high school attended by
38 the ~~((victim))~~ harmed party or the ~~((victim's))~~ harmed party's
39 siblings.

1 (b) The parents or legal guardians of the offender are
2 responsible for transportation or other costs associated with the
3 offender's change of school that would otherwise be paid by the
4 school district.

5 (c) The court shall send notice of the disposition and
6 restriction on attending the same school as the victim or victim's
7 siblings to the public or approved private school the juvenile will
8 attend, if known, or if unknown, to the approved private schools and
9 the public school district board of directors of the district in
10 which the juvenile resides or intends to reside. This notice must be
11 sent at the earliest possible date but not later than ten calendar
12 days after entry of the disposition.

13 (7) For offenders required to register under RCW 9A.44.130, at
14 the end of the supervision ordered under this disposition
15 alternative, there is a presumption that the offender is sufficiently
16 rehabilitated to warrant removal from the central registry of sex
17 offenders. The court shall relieve the offender's duty to register
18 unless the court finds that the offender is not sufficiently
19 rehabilitated to warrant removal and may consider the following
20 factors:

21 (a) The nature of the offense committed, including the number of
22 (~~victims~~) parties harmed by the juvenile and the length of the
23 offense history;

24 (b) Any subsequent criminal history of the juvenile;

25 (c) The juvenile's compliance with supervision requirements;

26 (d) The length of time since the charged incident occurred;

27 (e) Any input from community corrections officers, juvenile
28 parole or probation officers, law enforcement, or treatment
29 providers;

30 (f) The juvenile's participation in sex offender treatment;

31 (g) The juvenile's participation in other treatment and
32 rehabilitative programs;

33 (h) The juvenile's stability in employment and housing;

34 (i) The juvenile's community and personal support system;

35 (j) Any risk assessments or evaluations prepared by a qualified
36 professional related to the juvenile;

37 (k) Any updated polygraph examination completed by the juvenile;

38 (l) Any input of the (~~victim~~) harmed party; and

39 (m) Any other factors the court may consider relevant.

1 (8) (a) The sex offender treatment provider shall submit quarterly
2 reports on the respondent's progress in treatment to the court and
3 the parties. The reports shall reference the treatment plan and
4 include at a minimum the following: Dates of attendance, respondent's
5 compliance with requirements, treatment activities, the respondent's
6 relative progress in treatment, and any other material specified by
7 the court at the time of the disposition.

8 (b) At the time of the disposition, the court may set treatment
9 review hearings as the court considers appropriate.

10 (c) Except as provided in this subsection, examinations and
11 treatment ordered pursuant to this subsection shall be conducted by
12 qualified professionals as described under (d) of this subsection,
13 certified sex offender treatment providers, or certified affiliate
14 sex offender treatment providers under chapter 18.155 RCW.

15 (d) A sex offender therapist who examines or treats a juvenile
16 sex offender pursuant to this subsection does not have to be
17 certified by the department of health pursuant to chapter 18.155 RCW
18 if the therapist is a professional licensed under chapter 18.225 or
19 18.83 RCW and the treatment employed is evidence-based for sex
20 offender treatment, or if the court finds that: (i) The offender has
21 already moved to another state or plans to move to another state for
22 reasons other than circumventing the certification requirements; (ii)
23 no certified sex offender treatment providers or certified affiliate
24 sex offender treatment providers are available for treatment within a
25 reasonable geographical distance of the offender's home; and (iii)
26 the evaluation and treatment plan comply with this subsection and the
27 rules adopted by the department of health.

28 (9) (a) If the offender violates any condition of the disposition
29 or the court finds that the respondent is failing to make
30 satisfactory progress in treatment, the court may revoke the
31 suspension and order execution of the disposition or the court may
32 impose a penalty of up to thirty days confinement for violating
33 conditions of the disposition, except that an offender's failure to
34 perform community service may never be the sole reason to impose an
35 order of confinement.

36 (b) The court may order both execution of the disposition and up
37 to thirty days confinement for the violation of the conditions of the
38 disposition.

1 (c) The court shall give credit for any confinement time
2 previously served if that confinement was for the offense for which
3 the suspension is being revoked.

4 (10) For purposes of this section, (~~("victim")~~) "harmed party" or
5 "party harmed by a juvenile" means any person who has sustained
6 emotional, psychological, physical, or financial injury to person or
7 property as a direct result of the crime charged. (~~("Victim")~~)
8 "Harmed party" or "party harmed by a juvenile" may also include a
9 known parent or guardian of a (~~(victim)~~) harmed party who is a minor
10 child unless the parent or guardian is the perpetrator of the
11 offense.

12 (11) The respondent or the parent, guardian, or other person
13 having custody of the respondent shall not be required to pay the
14 cost of any evaluation or treatment of the respondent ordered by the
15 court under this section.

16 (12) A disposition entered under this section is not appealable
17 under RCW 13.40.230.

18 **Sec. 18.** RCW 13.40.165 and 2019 c 325 s 5007 are each amended to
19 read as follows:

20 (1) The purpose of this disposition alternative is to ensure that
21 successful treatment options to reduce recidivism are available to
22 eligible youth, pursuant to RCW 71.24.615. It is also the purpose of
23 the disposition alternative to assure that minors in need of
24 substance use disorder, mental health, and/or co-occurring disorder
25 treatment receive an appropriate continuum of culturally relevant
26 care and treatment, including prevention and early intervention,
27 self-directed care, parent-directed care, and residential treatment.
28 To facilitate the continuum of care and treatment to minors in out-
29 of-home placements, all divisions of the department that provide
30 these services to minors shall jointly plan and deliver these
31 services. It is also the purpose of the disposition alternative to
32 protect the rights of minors against needless hospitalization and
33 deprivations of liberty and to enable treatment decisions to be made
34 in response to clinical needs and in accordance with sound
35 professional judgment. The mental health, substance abuse, and co-
36 occurring disorder treatment providers shall, to the extent possible,
37 offer services that involve minors' parents, guardians, and family.

38 (2) The court must consider eligibility for the substance use
39 disorder or mental health disposition alternative when a juvenile

1 offender is subject to a standard range disposition of local
2 sanctions or 15 to 36 weeks of confinement and has not committed an
3 A- or B+ offense, other than a first time B+ offense under chapter
4 69.50 RCW. The court, on its own motion or the motion of the state or
5 the respondent if the evidence shows that the offender may be
6 chemically dependent, substance abusing, or has significant mental
7 health or co-occurring disorders may order an examination by a
8 substance use disorder counselor from a substance use disorder
9 treatment facility approved under chapter 70.96A RCW or a mental
10 health professional as defined in chapter 71.34 RCW to determine if
11 the youth is chemically dependent, substance abusing, or suffers from
12 significant mental health or co-occurring disorders. (~~The offender
13 shall pay the cost of any examination ordered under this subsection
14 unless the court finds that the offender is indigent and no third
15 party insurance coverage is available, in which case the state shall
16 pay the cost.~~) The state shall pay the cost of any examination
17 ordered under this subsection unless third-party insurance coverage
18 is available.

19 (3) The report of the examination shall include at a minimum the
20 following: The respondent's version of the facts and the official
21 version of the facts, the respondent's offense history, an assessment
22 of drug-alcohol problems, mental health diagnoses, previous treatment
23 attempts, the respondent's social, educational, and employment
24 situation, and other evaluation measures used. The report shall set
25 forth the sources of the examiner's information.

26 (4) The examiner shall assess and report regarding the
27 respondent's relative risk to the community. A proposed treatment
28 plan shall be provided and shall include, at a minimum:

29 (a) Whether inpatient and/or outpatient treatment is recommended;

30 (b) Availability of appropriate treatment;

31 (c) Monitoring plans, including any requirements regarding living
32 conditions, lifestyle requirements, and monitoring by family members,
33 legal guardians, or others;

34 (d) Anticipated length of treatment; and

35 (e) Recommended crime-related prohibitions.

36 (5) The court on its own motion may order, or on a motion by the
37 state or the respondent shall order, a second examination. The
38 evaluator shall be selected by the party making the motion. The
39 requesting party shall pay the cost of any examination ordered under
40 this subsection unless the requesting party is the offender (~~and the~~

1 ~~court finds that the offender is indigent and no third party~~
2 ~~insurance coverage is available)),~~ in which case the state shall pay
3 the cost if no third-party insurance coverage is available.

4 (6) (a) After receipt of reports of the examination, the court
5 shall then consider whether the offender and the community will
6 benefit from use of this disposition alternative and consider the
7 (~~victim's~~) harmed party's opinion whether the offender should
8 receive a treatment disposition under this section.

9 (b) If the court determines that this disposition alternative is
10 appropriate, then the court shall impose the standard range for the
11 offense, or if the court concludes, and enters reasons for its
12 conclusion, that such disposition would effectuate a manifest
13 injustice, the court shall impose a disposition above the standard
14 range as indicated in option D of RCW 13.40.0357 if the disposition
15 is an increase from the standard range and the confinement of the
16 offender does not exceed a maximum of fifty-two weeks, suspend
17 execution of the disposition, and place the offender on community
18 supervision for up to one year. As a condition of the suspended
19 disposition, the court shall require the offender to undergo
20 available outpatient drug/alcohol, mental health, or co-occurring
21 disorder treatment and/or inpatient mental health or drug/alcohol
22 treatment. The court shall only order inpatient treatment under this
23 section if a funded bed is available. If the inpatient treatment is
24 longer than ninety days, the court shall hold a review hearing every
25 thirty days beyond the initial ninety days. The respondent may appear
26 telephonically at these review hearings if in compliance with
27 treatment. As a condition of the suspended disposition, the court may
28 impose conditions of community supervision and other sanctions,
29 including up to thirty days of confinement (~~(, one hundred fifty)~~) and
30 eight hours of community (~~(restitution, and payment of legal~~
31 ~~financial obligations and restitution)~~) service.

32 (7) The mental health/co-occurring disorder/drug/alcohol
33 treatment provider shall submit monthly reports on the respondent's
34 progress in treatment to the court and the parties. The reports shall
35 reference the treatment plan and include at a minimum the following:
36 Dates of attendance, respondent's compliance with requirements,
37 treatment activities, the respondent's relative progress in
38 treatment, and any other material specified by the court at the time
39 of the disposition.

1 At the time of the disposition, the court may set treatment
2 review hearings as the court considers appropriate.

3 If the offender violates any condition of the disposition or the
4 court finds that the respondent is failing to make satisfactory
5 progress in treatment, the court may impose sanctions pursuant to RCW
6 13.40.200 or revoke the suspension and order execution of the
7 disposition. The court shall give credit for any confinement time
8 previously served if that confinement was for the offense for which
9 the suspension is being revoked.

10 (8) For purposes of this section, (~~("victim")~~) "harmed party" or
11 "party harmed by a juvenile" means any person who has sustained
12 emotional, psychological, physical, or financial injury to person or
13 property as a direct result of the offense charged. (~~("Victim")~~)
14 "Harmed party" or "party harmed by a juvenile" may also include a
15 known parent or guardian of a (~~(victim)~~) harmed party who is a minor
16 child or is not a minor child but is incapacitated, incompetent,
17 disabled, or deceased.

18 (9) Whenever a juvenile offender is entitled to credit for time
19 spent in detention prior to a dispositional order, the dispositional
20 order shall specifically state the number of days of credit for time
21 served.

22 (10) In no case shall the term of confinement imposed by the
23 court at disposition exceed that to which an adult could be subjected
24 for the same offense.

25 (11) A disposition under this section is not appealable under RCW
26 13.40.230.

27 (12) Subject to funds appropriated for this specific purpose, the
28 costs incurred by the juvenile courts for the mental health,
29 substance use disorder, and/or co-occurring disorder evaluations,
30 treatment, and costs of supervision required under this section shall
31 be paid by the health care authority.

32 (13) A juvenile, or the parent, guardian, or other person having
33 custody of the juvenile shall not be required to pay the cost of any
34 evaluation or treatment ordered by the court under this section.

35 **Sec. 19.** RCW 13.40.180 and 2012 c 177 s 3 are each amended to
36 read as follows:

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

1 (a) Where the offenses were committed through a single act or
2 omission, omission, or through an act or omission which in itself
3 constituted one of the offenses and also was an element of the other,
4 the aggregate of all the terms shall not exceed one hundred fifty
5 percent of the term imposed for the most serious offense;

6 (b) The aggregate of all consecutive terms shall not exceed three
7 hundred percent of the term imposed for the most serious offense; and

8 (c) The aggregate of all consecutive terms of community
9 supervision shall not exceed two years in length, or require any
10 payment of ~~((more than two hundred dollars in))~~ fines or the
11 performance of more than ~~((two hundred))~~ eight hours of community
12 ~~((restitution))~~ service.

13 (2) Where disposition in separate disposition orders is imposed
14 on a youth, the periods of community supervision contained in
15 separate orders, if any, shall run concurrently. All other terms
16 contained in separate disposition orders shall run consecutively.

17 **Sec. 20.** RCW 13.40.190 and 2015 c 265 s 6 are each amended to
18 read as follows:

19 (1) ~~((a))~~ In its dispositional order, the court ~~((shall require~~
20 ~~the respondent to make restitution to any persons who have suffered~~
21 ~~loss or damage as a result of the offense committed by the~~
22 ~~respondent. In addition, restitution may be ordered for loss or~~
23 ~~damage if the offender pleads guilty to a lesser offense or fewer~~
24 ~~offenses and agrees with the prosecutor's recommendation that the~~
25 ~~offender be required to pay restitution to a victim of an offense or~~
26 ~~offenses which, pursuant to a plea agreement, are not prosecuted.~~

27 ~~(b) Restitution may include the costs of counseling reasonably~~
28 ~~related to the offense.~~

29 ~~(c) The payment of restitution shall be in addition to any~~
30 ~~punishment which is imposed pursuant to the other provisions of this~~
31 ~~chapter.~~

32 ~~(d) The court may determine the amount, terms, and conditions of~~
33 ~~the restitution including a payment plan extending up to ten years if~~
34 ~~the court determines that the respondent does not have the means to~~
35 ~~make full restitution over a shorter period. If the court determines~~
36 ~~that a juvenile has insufficient funds to pay and upon agreement of~~
37 ~~the victim, the court)) may order performance of ~~((a number of))~~ no
38 more than eight hours of community ~~((restitution in lieu of monetary~~
39 ~~penalty, at the rate of the then state minimum wage per hour))~~~~

1 ~~service. ((The court shall allow the victim to determine the nature~~
2 ~~of the community restitution to be completed when it is practicable~~
3 ~~and appropriate to do so. For the purposes of this section, the~~
4 ~~respondent shall remain under the court's jurisdiction for a maximum~~
5 ~~term of ten years after the respondent's eighteenth birthday and,~~
6 ~~during this period, the restitution portion of the dispositional~~
7 ~~order may be modified as to amount, terms, and conditions at any~~
8 ~~time. Prior to the expiration of the ten-year period, the juvenile~~
9 ~~court may extend the judgment for the payment of restitution for an~~
10 ~~additional ten years. If the court grants a respondent's petition~~
11 ~~pursuant to RCW 13.50.260, the court's jurisdiction under this~~
12 ~~subsection shall terminate.~~

13 ~~(e) Nothing in this section shall prevent a respondent from~~
14 ~~petitioning the court pursuant to RCW 13.50.260 if the respondent has~~
15 ~~paid the full restitution amount stated in the court's order and has~~
16 ~~met the statutory criteria.~~

17 ~~(f) If the respondent participated in the crime with another~~
18 ~~person or other persons, the court may either order joint and several~~
19 ~~restitution or may divide restitution equally among the respondents.~~
20 ~~In determining whether restitution should be joint and several or~~
21 ~~equally divided, the court shall consider the interest and~~
22 ~~circumstances of the victim or victims, the circumstances of the~~
23 ~~respondents, and the interest of justice.~~

24 ~~(g) At any time, the court may determine that the respondent is~~
25 ~~not required to pay, or may relieve the respondent of the requirement~~
26 ~~to pay, full or partial restitution to any insurance provider~~
27 ~~authorized under Title 48 RCW if the respondent reasonably satisfies~~
28 ~~the court that he or she does not have the means to make full or~~
29 ~~partial restitution to the insurance provider.))~~

30 ~~(2) ((Regardless of the provisions of subsection (1) of this~~
31 ~~section, the)) The court shall ((order restitution in all cases where~~
32 ~~the victim is)) notify persons who have suffered loss or damage as a~~
33 ~~result of the offense committed by the respondent that they may be~~
34 ~~entitled to ((benefits under the crime victims' compensation act,~~
35 ~~chapter 7.68 RCW)) apply for compensation as provided in section 4 of~~
36 ~~this act. ((If the court does not order restitution and the victim of~~
37 ~~the crime has been determined to be entitled to benefits under the~~
38 ~~crime victims' compensation act, the department of labor and~~
39 ~~industries, as administrator of the crime victims' compensation~~
40 ~~program, may petition the court within one year of entry of the~~

1 ~~disposition order for entry of a restitution order. Upon receipt of a~~
2 ~~petition from the department of labor and industries, the court shall~~
3 ~~hold a restitution hearing and shall enter a restitution order.~~

4 ~~(3) If an order includes restitution as one of the monetary~~
5 ~~assessments, the county clerk shall make disbursements to victims~~
6 ~~named in the order. The restitution to victims named in the order~~
7 ~~shall be paid prior to any payment for other penalties or monetary~~
8 ~~assessments. The county clerk shall make restitution disbursements to~~
9 ~~victims prior to payments to any insurance provider under Title 48~~
10 ~~RCW.~~

11 ~~(4) For purposes of this section, "victim" means any person who~~
12 ~~has sustained emotional, psychological, physical, or financial injury~~
13 ~~to person or property as a direct result of the offense charged.~~
14 ~~"Victim" may also include a known parent or guardian of a victim who~~
15 ~~is a minor child or is not a minor child but is incapacitated,~~
16 ~~incompetent, disabled, or deceased.~~

17 ~~(5) A respondent under obligation to pay restitution may petition~~
18 ~~the court for modification of the restitution order for good cause~~
19 ~~shown, including inability to pay.)~~

20 **Sec. 21.** RCW 13.40.200 and 2004 c 120 s 7 are each amended to
21 read as follows:

22 (1) When a respondent fails to comply with an order of
23 ~~((restitution,))~~ community supervision~~((, penalty assessments,))~~ or
24 confinement of less than thirty days, the court upon motion of the
25 prosecutor or its own motion, may modify the order after a hearing on
26 the violation.

27 (2) The hearing shall afford the respondent the same due process
28 of law as would be afforded an adult probationer. The court may issue
29 a summons or a warrant to compel the respondent's appearance. The
30 state shall have the burden of proving by a preponderance of the
31 evidence the fact of the violation. The respondent shall have the
32 burden of showing that the violation was not a willful refusal to
33 comply with the terms of the order. If a respondent has failed to
34 ~~((pay a fine, penalty assessments, or restitution or to))~~ perform
35 community ~~((restitution))~~ service hours, as required by the court, it
36 shall be the respondent's burden to show that he or she did not have
37 the means ~~((and could not reasonably have acquired the means to pay~~
38 ~~the fine, penalty assessments, or restitution or))~~ to perform
39 community ~~((restitution))~~ service.

1 (3) ~~((If the court finds that a respondent has willfully violated~~
2 ~~the terms of an order pursuant to subsections (1) and (2) of this~~
3 ~~section, it may impose a penalty of up to thirty days' confinement.~~
4 ~~Penalties for multiple violations occurring prior to the hearing~~
5 ~~shall not be aggregated to exceed thirty days' confinement.~~
6 ~~Regardless of the number of times a respondent is brought to court~~
7 ~~for violations of the terms of a single disposition order, the~~
8 ~~combined total number of days spent by the respondent in detention~~
9 ~~shall never exceed the maximum term to which an adult could be~~
10 ~~sentenced for the underlying offense.)) Failure to perform community
11 service may never be the sole reason to impose an order of
12 confinement.~~

13 (4) ~~((If a respondent has been ordered to pay a fine or monetary~~
14 ~~penalty and due to a change of circumstance cannot reasonably comply~~
15 ~~with the order, the court, upon motion of the respondent, may order~~
16 ~~that the unpaid fine or monetary penalty be converted to community~~
17 ~~restitution unless the monetary penalty is the crime victim penalty~~
18 ~~assessment, which cannot be converted, waived, or otherwise modified,~~
19 ~~except for schedule of payment. The number of hours of community~~
20 ~~restitution in lieu of a monetary penalty or fine shall be converted~~
21 ~~at the rate of the prevailing state minimum wage per hour. The~~
22 ~~monetary penalties or fines collected shall be deposited in the~~
23 ~~county general fund. A failure to comply with an order under this~~
24 ~~subsection shall be deemed a failure to comply with an order of~~
25 ~~community supervision and may be proceeded against as provided in~~
26 ~~this section.~~

27 ~~(5))~~ When a respondent has willfully violated the terms of a
28 probation bond, the court may modify, revoke, or retain the probation
29 bond as provided in RCW 13.40.054.

30 **Sec. 22.** RCW 13.40.205 and 2019 c 468 s 1 are each amended to
31 read as follows:

32 (1) A juvenile sentenced to a term of confinement to be served
33 under the supervision of the department shall not be released from
34 the physical custody of the department prior to the release date
35 established under RCW 13.40.210 except as otherwise provided in this
36 section.

37 (2) A juvenile serving a term of confinement under the
38 supervision of the department may be released on authorized leave

1 from the physical custody of the department only if consistent with
2 public safety and if:

3 (a) Sixty percent of the minimum term of confinement has been
4 served; and

5 (b) The purpose of the leave is to enable the juvenile:

6 (i) To visit the juvenile's family for the purpose of
7 strengthening or preserving family relationships;

8 (ii) To make plans for parole or release which require the
9 juvenile's personal appearance in the community and which will
10 facilitate the juvenile's reintegration into the community; or

11 (iii) To make plans for a residential placement out of the
12 juvenile's home which requires the juvenile's personal appearance in
13 the community.

14 (3) No authorized leave may exceed seven consecutive days. The
15 total of all preminimum term authorized leaves granted to a juvenile
16 prior to final discharge from confinement shall not exceed thirty
17 days.

18 (4) Prior to authorizing a leave, the secretary shall require a
19 written leave plan, which shall detail the purpose of the leave and
20 how it is to be achieved, the address at which the juvenile shall
21 reside, the identity of the person responsible for supervising the
22 juvenile during the leave, and a statement by such person
23 acknowledging familiarity with the leave plan and agreeing to
24 supervise the juvenile and to notify the secretary immediately if the
25 juvenile violates any terms or conditions of the leave. The leave
26 plan shall include such terms and conditions as the secretary deems
27 appropriate and shall be signed by the juvenile.

28 (5) Upon authorizing a leave, the secretary shall issue to the
29 juvenile an authorized leave order which shall contain the name of
30 the juvenile, the fact that the juvenile is on leave from a
31 designated facility, the time period of the leave, and the identity
32 of an appropriate official of the department to contact when
33 necessary. The authorized leave order shall be carried by the
34 juvenile at all times while on leave.

35 (6) Prior to the commencement of any authorized leave, the
36 secretary shall give notice of the leave to the appropriate law
37 enforcement agency in the jurisdiction in which the juvenile will
38 reside during the leave period. The notice shall include the identity
39 of the juvenile, the time period of the leave, the residence of the

1 juvenile during the leave, and the identity of the person responsible
2 for supervising the juvenile during the leave.

3 (7) The secretary may authorize a leave, which shall not exceed
4 forty-eight hours plus travel time, to meet an emergency situation
5 such as a death or critical illness of a member of the juvenile's
6 family. The secretary may authorize a leave, which shall not exceed
7 the period of time medically necessary, to obtain medical care not
8 available in a juvenile facility maintained by the department. In
9 cases of emergency or medical leave the secretary may waive all or
10 any portions of subsections (2)(a), (3), (4), (5), and (6) of this
11 section.

12 (8) If requested by the (~~(juvenile's victim)~~) party harmed by the
13 juvenile or the (~~(victim's)~~) harmed party's immediate family, the
14 secretary shall give notice of any leave to the (~~(victim)~~) harmed
15 party or the (~~(victim's)~~) harmed party's immediate family.

16 (9) A juvenile who violates any condition of an authorized leave
17 plan may be taken into custody and returned to the department in the
18 same manner as an adult in identical circumstances.

19 (10) Notwithstanding the provisions of this section, a juvenile
20 placed in minimum security status may participate in work,
21 educational, community (~~(restitution)~~) service, or treatment programs
22 in the community up to (~~(twelve)~~) eight hours a day if approved by
23 the secretary. Such a release shall not be deemed a leave of absence.
24 This authorization may be increased to more than (~~(twelve)~~) eight
25 hours a day up to sixteen hours a day if approved by the secretary
26 and operated within the department's appropriations.

27 (11) Subsections (6), (7), and (8) of this section do not apply
28 to juveniles covered by RCW 13.40.215.

29 **Sec. 23.** RCW 13.40.205 and 2021 c 206 s 4 are each amended to
30 read as follows:

31 (1) A juvenile sentenced to a term of confinement to be served
32 under the supervision of the department shall not be released from
33 the physical custody of the department prior to the release date
34 established under RCW 13.40.210 except as otherwise provided in this
35 section.

36 (2) A juvenile serving a term of confinement under the
37 supervision of the department may be released on authorized leave
38 from the physical custody of the department only if consistent with
39 public safety and if:

1 (a) Sixty percent of the minimum term of confinement has been
2 served; and

3 (b) The purpose of the leave is to enable the juvenile:

4 (i) To visit the juvenile's family for the purpose of
5 strengthening or preserving family relationships;

6 (ii) To make plans for parole or release which require the
7 juvenile's personal appearance in the community and which will
8 facilitate the juvenile's reintegration into the community; or

9 (iii) To make plans for a residential placement out of the
10 juvenile's home which requires the juvenile's personal appearance in
11 the community.

12 (3) No authorized leave may exceed seven consecutive days. The
13 total of all preminimum term authorized leaves granted to a juvenile
14 prior to final discharge from confinement shall not exceed thirty
15 days.

16 (4) Prior to authorizing a leave, the secretary shall require a
17 written leave plan, which shall detail the purpose of the leave and
18 how it is to be achieved, the address at which the juvenile shall
19 reside, the identity of the person responsible for supervising the
20 juvenile during the leave, and a statement by such person
21 acknowledging familiarity with the leave plan and agreeing to
22 supervise the juvenile and to notify the secretary immediately if the
23 juvenile violates any terms or conditions of the leave. The leave
24 plan shall include such terms and conditions as the secretary deems
25 appropriate and shall be signed by the juvenile.

26 (5) Upon authorizing a leave, the secretary shall issue to the
27 juvenile an authorized leave order which shall contain the name of
28 the juvenile, the fact that the juvenile is on leave from a
29 designated facility, the time period of the leave, and the identity
30 of an appropriate official of the department to contact when
31 necessary. The authorized leave order shall be carried by the
32 juvenile at all times while on leave.

33 (6) Prior to the commencement of any authorized leave, the
34 secretary shall give notice of the leave to the appropriate law
35 enforcement agency in the jurisdiction in which the juvenile will
36 reside during the leave period. The notice shall include the identity
37 of the juvenile, the time period of the leave, the residence of the
38 juvenile during the leave, and the identity of the person responsible
39 for supervising the juvenile during the leave.

1 (7) The secretary may authorize a leave, which shall not exceed
2 forty-eight hours plus travel time, to meet an emergency situation
3 such as a death or critical illness of a member of the juvenile's
4 family. The secretary may authorize a leave, which shall not exceed
5 the period of time medically necessary, to obtain medical care not
6 available in a juvenile facility maintained by the department. In
7 cases of emergency or medical leave the secretary may waive all or
8 any portions of subsections (2)(a), (3), (4), (5), and (6) of this
9 section.

10 (8) If requested by the (~~(juvenile's victim)~~) party harmed by the
11 juvenile or the (~~(victim's)~~) harmed party's immediate family, the
12 secretary shall give notice of any leave or community transition
13 services under subsection (13) of this section to the (~~(victim)~~)
14 harmed party or the (~~(victim's)~~) harmed party's immediate family.

15 (9) A juvenile who violates any condition of an authorized leave
16 plan or community transition services under subsection (13) of this
17 section may be taken into custody and returned to the department in
18 the same manner as an adult in identical circumstances.

19 (10) Community transition services is an electronic monitoring
20 program as that term is used in RCW 9A.76.130.

21 (11) Notwithstanding the provisions of this section, a juvenile
22 placed in minimum security status or in community transition services
23 under subsection (13) of this section may participate in work,
24 educational, community (~~(restitution)~~) service, or treatment programs
25 in the community up to (~~(twelve)~~) eight hours a day if approved by
26 the secretary. Such a release shall not be deemed a leave of absence.
27 This authorization may be increased to more than (~~(twelve)~~) eight
28 hours a day up to sixteen hours a day if approved by the secretary
29 and operated within the department's appropriations.

30 (12) Subsections (6), (7), and (8) of this section do not apply
31 to juveniles covered by RCW 13.40.215.

32 (13)(a) The department may require a person in its custody to
33 serve the remainder of the person's sentence in community transition
34 services if the department determines that such placement is in the
35 best interest of the person and the community using the risk
36 assessment tool and considering the availability of appropriate
37 placements, treatment, and programming. The person shall not be
38 required to pay for community transition services. The department's
39 determination described under this subsection must include
40 consideration of the person's behavior while in confinement and any

1 disciplinary considerations. The department shall establish
2 appropriate conditions the person must comply with to remain in
3 community transition services. A person must have served 60 percent
4 of their minimum term of confinement and no less than 15 weeks of
5 total confinement including time spent in detention prior to
6 sentencing or the entry of a dispositional order before becoming
7 eligible for community transition services under the authority and
8 supervision of the department.

9 (b) A person placed in community transition services under this
10 section must have access to appropriate treatment and programming as
11 determined by the department, including but not limited to:

- 12 (i) Behavioral health treatment;
- 13 (ii) Independent living;
- 14 (iii) Employment;
- 15 (iv) Education;
- 16 (v) Connections to family and natural supports; and
- 17 (vi) Community connections.

18 (c) Community transition services under this section is in lieu
19 of confinement in an institution or community facility operated by
20 the department, and will not fulfill any period of parole required
21 under RCW 13.40.210.

22 (d) If a person placed in community transition services under
23 this section violates a condition of participation in the community
24 transition services program, or if the department determines that
25 placement in the program is no longer in the best interests of the
26 person or community, the person may be returned to an institution
27 operated by the department at the department's discretion.

28 (e) The following persons are not eligible for community
29 transition services under this section:

- 30 (i) Persons with pending charges or warrants;
- 31 (ii) Persons who will be transferred to the department of
32 corrections, who are in the custody of the department of corrections,
33 or who are under the supervision of the department of corrections;
- 34 (iii) Persons who were adjudicated or convicted of the crime of
35 murder in the first or second degree;
- 36 (iv) Persons who meet the definition of a "persistent offender"
37 as defined under RCW 9.94A.030;
- 38 (v) Level III sex offenders; and
- 39 (vi) Persons requiring out-of-state placement.

1 (14) The department shall design, or contract for the design, and
2 implement a risk assessment tool. The tool must be designed to limit
3 bias related to race, ethnicity, gender, and age. The risk assessment
4 tool must be certified at least every three years based on current
5 academic standards for assessment validation, and can be certified by
6 the office of innovation, alignment, and accountability or an outside
7 researcher.

8 **Sec. 24.** RCW 13.40.210 and 2017 3rd sp.s. c 6 s 609 are each
9 amended to read as follows:

10 (1) The secretary shall set a release date for each juvenile
11 committed to its custody. The release date shall be within the
12 prescribed range to which a juvenile has been committed under RCW
13 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320
14 concerning offenders the department determines are eligible for the
15 juvenile offender basic training camp program. Such dates shall be
16 determined prior to the expiration of sixty percent of a juvenile's
17 minimum term of confinement included within the prescribed range to
18 which the juvenile has been committed. The secretary shall release
19 any juvenile committed to the custody of the department within four
20 calendar days prior to the juvenile's release date or on the release
21 date set under this chapter. Days spent in the custody of the
22 department shall be tolled by any period of time during which a
23 juvenile has absented himself or herself from the department's
24 supervision without the prior approval of the secretary or the
25 secretary's designee.

26 (2) The secretary shall monitor the average daily population of
27 the state's juvenile residential facilities. When the secretary
28 concludes that in-residence population of residential facilities
29 exceeds one hundred five percent of the rated bed capacity specified
30 in statute, or in absence of such specification, as specified by the
31 department in rule, the secretary may recommend reductions to the
32 governor. On certification by the governor that the recommended
33 reductions are necessary, the secretary has authority to
34 administratively release a sufficient number of offenders to reduce
35 in-residence population to one hundred percent of rated bed capacity.
36 The secretary shall release those offenders who have served the
37 greatest proportion of their sentence. However, the secretary may
38 deny release in a particular case at the request of an offender, or
39 if the secretary finds that there is no responsible custodian, as

1 determined by the department, to whom to release the offender, or if
2 the release of the offender would pose a clear danger to society. The
3 department shall notify the committing court of the release at the
4 time of release if any such early releases have occurred as a result
5 of excessive in-residence population. In no event shall an offender
6 adjudicated of a violent offense be granted release under the
7 provisions of this subsection.

8 (3) (a) Following the release of any juvenile under subsection (1)
9 of this section, the secretary may require the juvenile to comply
10 with a program of parole to be administered by the department in his
11 or her community which shall last no longer than eighteen months,
12 except that in the case of a juvenile sentenced for rape in the first
13 or second degree, rape of a child in the first or second degree,
14 child molestation in the first degree, or indecent liberties with
15 forcible compulsion, the period of parole shall be twenty-four months
16 and, in the discretion of the secretary, may be up to thirty-six
17 months when the secretary finds that an additional period of parole
18 is necessary and appropriate in the interests of public safety or to
19 meet the ongoing needs of the juvenile. A parole program is mandatory
20 for offenders released under subsection (2) of this section and for
21 offenders who receive a juvenile residential commitment sentence for
22 theft of a motor vehicle, possession of a stolen motor vehicle, or
23 taking a motor vehicle without permission 1. A juvenile adjudicated
24 for unlawful possession of a firearm, possession of a stolen firearm,
25 theft of a firearm, or drive-by shooting may participate in
26 aggression replacement training, functional family therapy, or
27 functional family parole aftercare if the juvenile meets eligibility
28 requirements for these services. The decision to place an offender in
29 an evidence-based parole program shall be based on an assessment by
30 the department of the offender's risk for reoffending upon release
31 and an assessment of the ongoing treatment needs of the juvenile. The
32 department shall prioritize available parole resources to provide
33 supervision and services to offenders at moderate to high risk for
34 reoffending.

35 (b) The secretary shall, for the period of parole, facilitate the
36 juvenile's reintegration into his or her community and to further
37 this goal shall require the juvenile to refrain from possessing a
38 firearm or using a deadly weapon and refrain from committing new
39 offenses and may require the juvenile to: (i) Undergo available
40 medical, psychiatric, drug and alcohol, sex offender, mental health,

1 and other offense-related treatment services; (ii) report as directed
2 to a parole officer and/or designee; (iii) pursue a course of study,
3 vocational training, or employment; (iv) notify the parole officer of
4 the current address where he or she resides; (v) be present at a
5 particular address during specified hours; (vi) remain within
6 prescribed geographical boundaries; (vii) submit to electronic
7 monitoring; (viii) refrain from using illegal drugs and alcohol, and
8 submit to random urinalysis when requested by the assigned parole
9 officer; (ix) refrain from contact with specific individuals or a
10 specified class of individuals; (x) meet other conditions determined
11 by the parole officer to further enhance the juvenile's reintegration
12 into the community; and (xi) (~~pay any court-ordered fines or~~
13 ~~restitution; and (xii)) perform community ((restitution)) service.
14 Community ((restitution)) service for the purpose of this section
15 means compulsory service, without compensation, performed for the
16 benefit of the community by the offender. Community ((restitution))
17 service may be performed through public or private organizations or
18 through work crews.~~

19 (c) The secretary may further require up to twenty-five percent
20 of the highest risk juvenile offenders who are placed on parole to
21 participate in an intensive supervision program. Offenders
22 participating in an intensive supervision program shall be required
23 to comply with all terms and conditions listed in (b) of this
24 subsection and shall also be required to comply with the following
25 additional terms and conditions: (i) Obey all laws and refrain from
26 any conduct that threatens public safety; (ii) report at least once a
27 week to an assigned community case manager; and (iii) meet all other
28 requirements imposed by the community case manager related to
29 participating in the intensive supervision program. As a part of the
30 intensive supervision program, the secretary may require day
31 reporting.

32 (d) After termination of the parole period, the juvenile shall be
33 discharged from the department's supervision.

34 (4) (a) The department may also modify parole for violation
35 thereof. If, after affording a juvenile all of the due process rights
36 to which he or she would be entitled if the juvenile were an adult,
37 the secretary finds that a juvenile has violated a condition of his
38 or her parole, the secretary shall order one of the following which
39 is reasonably likely to effectuate the purpose of the parole and to
40 protect the public: (i) Continued supervision under the same

1 conditions previously imposed; (ii) intensified supervision with
2 increased reporting requirements; (iii) additional conditions of
3 supervision authorized by this chapter; (iv) except as provided in
4 (a)(v) ~~((and))~~, (vi), and (vii) of this subsection, imposition of a
5 period of confinement not to exceed thirty days in a facility
6 operated by or pursuant to a contract with the state of Washington or
7 any city or county for a portion of each day or for a certain number
8 of days each week with the balance of the days or weeks spent under
9 supervision; (v) the secretary may order any of the conditions or may
10 return the offender to confinement for the remainder of the sentence
11 range if the offense for which the offender was sentenced is rape in
12 the first or second degree, rape of a child in the first or second
13 degree, child molestation in the first degree, indecent liberties
14 with forcible compulsion, or a sex offense that is also a serious
15 violent offense as defined by RCW 9.94A.030; ~~((and))~~ (vi) the
16 secretary may order any of the conditions or may return the offender
17 to confinement for the remainder of the sentence range if the youth
18 has completed the basic training camp program as described in RCW
19 13.40.320; and (vii) the secretary may not order confinement for the
20 sole reason that the offender failed to perform community service.

21 (b) The secretary may modify parole and order any of the
22 conditions or may return the offender to confinement for up to
23 twenty-four weeks if the offender was sentenced for a sex offense as
24 defined under RCW 9A.44.128 and is known to have violated the terms
25 of parole. Confinement beyond thirty days is intended to only be used
26 for a small and limited number of sex offenders. It shall only be
27 used when other graduated sanctions or interventions have not been
28 effective or the behavior is so egregious it warrants the use of the
29 higher level intervention and the violation: (i) Is a known pattern
30 of behavior consistent with a previous sex offense that puts the
31 youth at high risk for reoffending sexually; (ii) consists of sexual
32 behavior that is determined to be predatory as defined in RCW
33 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to
34 a recent overt act. The total number of days of confinement for
35 violations of parole conditions during the parole period shall not
36 exceed the number of days provided by the maximum sentence imposed by
37 the disposition for the underlying offense pursuant to RCW
38 13.40.0357. The department shall not aggregate multiple parole
39 violations that occur prior to the parole revocation hearing and
40 impose consecutive twenty-four week periods of confinement for each

1 parole violation. The department is authorized to engage in rule
2 making pursuant to chapter 34.05 RCW, to implement this subsection,
3 including narrowly defining the behaviors that could lead to this
4 higher level intervention.

5 (c) If the department finds that any juvenile in a program of
6 parole has possessed a firearm or used a deadly weapon during the
7 program of parole, the department shall modify the parole under (a)
8 of this subsection and confine the juvenile for at least thirty days.
9 Confinement shall be in a facility operated by or pursuant to a
10 contract with the state or any county.

11 (5) A parole officer of the department of children, youth, and
12 families shall have the power to arrest a juvenile under his or her
13 supervision on the same grounds as a law enforcement officer would be
14 authorized to arrest the person.

15 (6) If so requested and approved under chapter 13.06 RCW, the
16 secretary shall permit a county or group of counties to perform
17 functions under subsections (3) through (5) of this section.

18 (7) A juvenile, or the parent, guardian, or other person having
19 custody of the juvenile shall not be required to pay the cost of any
20 program or treatment ordered by the court under this section.

21 **Sec. 25.** RCW 13.40.250 and 2020 c 191 s 5 are each amended to
22 read as follows:

23 A traffic infraction, transit infraction, or civil infraction
24 case involving a juvenile under the age of sixteen may be diverted in
25 accordance with the provisions of this chapter or filed in juvenile
26 court.

27 (1) If a notice of a traffic infraction, transit infraction, or
28 civil infraction is filed in juvenile court, the juvenile named in
29 the notice shall be afforded the same due process afforded to adult
30 defendants in traffic infraction cases.

31 (2) A monetary penalty imposed upon a juvenile under the age of
32 sixteen who is found to have committed a traffic infraction, transit
33 infraction, or civil infraction may not exceed one hundred dollars.
34 At the juvenile's request, the court may order performance of a
35 number of hours of community (~~restitution~~) service in lieu of a
36 monetary penalty, at the rate of the prevailing state minimum wage
37 per hour.

38 (3) A diversion agreement entered into by a juvenile referred
39 pursuant to this section shall be limited to (~~thirty~~) eight hours

1 of community (~~restitution~~) service, or educational or informational
2 sessions.

3 (4) Traffic infractions, transit infractions, or civil
4 infractions referred to a youth court pursuant to this section are
5 subject to the conditions imposed by RCW 13.40.630.

6 (5) A diversion agreement entered into by a juvenile referred
7 pursuant to this section may include a requirement that the juvenile
8 participate in a district or municipal youth court program under
9 chapter 3.72 RCW, provided the youth court program accepts the
10 referral and only subject to the following conditions:

11 (a) Upon entering the diversion agreement, the juvenile shall be
12 referred to the youth court program, the completion of which shall be
13 the only condition of the diversion agreement;

14 (b) The juvenile shall not serve more than (~~thirty~~) eight hours
15 of participation in the youth court program;

16 (c) Other than filing a petition for termination of the diversion
17 agreement in juvenile court, nothing concerning the juvenile's
18 participation in the youth court program shall be filed in any public
19 court file concerning the juvenile's participation or presence in the
20 youth court program. The only written record of participation shall
21 be the diversion agreement entered into with the juvenile court,
22 subject to confidentiality under chapter 13.50 RCW. No court cause
23 number shall be assigned to the case against the juvenile while he or
24 she participates in the youth court program. The proceedings in the
25 youth court program shall be on open record and may be recorded if
26 necessary;

27 (d) Nothing concerning the alleged offense or the diversion shall
28 be reported to the department of licensing;

29 (e) The youth court program may refer the juvenile back to the
30 juvenile diversion unit for termination of the diversion agreement
31 due to noncompliance at any time prior to completion; and

32 (f) The juvenile court diversion unit shall maintain primary
33 jurisdiction over supervision of the juvenile during his or her
34 participation in the youth court program. The youth court shall
35 notify the diversion unit upon completion of the youth court program
36 and the diversion agreement shall be complete.

37 **Sec. 26.** RCW 13.40.308 and 2016 c 136 s 4 are each amended to
38 read as follows:

1 (1) If a respondent is adjudicated of taking a motor vehicle
2 without permission in the first degree as defined in RCW 9A.56.070,
3 the court shall impose the following minimum sentence(~~(, in addition~~
4 ~~to any restitution the court may order payable to the victim)~~):

5 (a) Juveniles with a prior criminal history score of zero to one-
6 half points shall be sentenced to a standard range sentence that
7 includes no less than three months of community supervision, (~~forty-~~
8 ~~five~~) eight hours of community (~~restitution~~) service, and a
9 requirement that the juvenile remain at home such that the juvenile
10 is confined to a private residence for no less than five days. The
11 juvenile may be subject to electronic monitoring, at no cost to the
12 juvenile or the juvenile's parents or guardians, where available. If
13 the juvenile is enrolled in school, the confinement shall be served
14 on nonschool days;

15 (b) Juveniles with a prior criminal history score of three-
16 quarters to one and one-half points shall be sentenced to a standard
17 range sentence that includes six months of community supervision, no
18 less than ten days of detention, and (~~ninety~~) eight hours of
19 community (~~restitution~~) service; and

20 (c) Juveniles with a prior criminal history score of two or more
21 points shall be sentenced to no less than fifteen to thirty-six weeks
22 commitment to the juvenile rehabilitation administration, four months
23 of parole supervision, and (~~ninety~~) eight hours of community
24 (~~restitution~~) service.

25 (2) If a respondent is adjudicated of theft of a motor vehicle as
26 defined under RCW 9A.56.065, or possession of a stolen vehicle as
27 defined under RCW 9A.56.068, the court shall impose the following
28 minimum sentence(~~(, in addition to any restitution the court may~~
29 ~~order payable to the victim)~~):

30 (a) Juveniles with a prior criminal history score of zero to one-
31 half points shall be sentenced to a standard range sentence that
32 includes no less than three months of community supervision and
33 either (~~ninety~~) eight hours of community (~~restitution~~) service or
34 a requirement that the juvenile remain at home such that the juvenile
35 is confined in a private residence for no less than five days, or a
36 combination thereof that includes a minimum of three days home
37 confinement and a minimum of (~~forty~~) eight hours of community
38 (~~restitution~~) service. The juvenile may be subject to electronic
39 monitoring, at no cost to the juvenile or the juvenile's parents or
40 guardians, where available;

1 (b) Juveniles with a prior criminal history score of three-
2 quarters to one and one-half points shall be sentenced to a standard
3 range sentence that includes no less than six months of community
4 supervision, no less than ten days of detention, and ~~((ninety))~~ eight
5 hours of community ~~((restitution))~~ service; and

6 (c) Juveniles with a prior criminal history score of two or more
7 points shall be sentenced to no less than fifteen to thirty-six weeks
8 commitment to the juvenile rehabilitation administration, four months
9 of parole supervision, and ~~((ninety))~~ eight hours of community
10 ~~((restitution))~~ service.

11 (3) If a respondent is adjudicated of taking a motor vehicle
12 without permission in the second degree as defined in RCW 9A.56.075,
13 the court shall impose a standard range as follows:

14 (a) Juveniles with a prior criminal history score of zero to one-
15 half points shall be sentenced to a standard range sentence that
16 includes three months of community supervision, ~~((fifteen))~~ eight
17 hours of community ~~((restitution))~~ service, and a requirement that
18 the juvenile remain at home such that the juvenile is confined in a
19 private residence for no less than one day. If the juvenile is
20 enrolled in school, the confinement shall be served on nonschool
21 days. The juvenile may be subject to electronic monitoring, at no
22 cost to the juvenile or the juvenile's parents or guardians, where
23 available;

24 (b) Juveniles with a prior criminal history score of three-
25 quarters to one and one-half points shall be sentenced to a standard
26 range sentence that includes no less than one day of detention, three
27 months of community supervision, ~~((thirty))~~ eight hours of community
28 ~~((restitution))~~ service, and a requirement that the juvenile remain
29 at home such that the juvenile is confined in a private residence for
30 no less than two days. If the juvenile is enrolled in school, the
31 confinement shall be served on nonschool days. The juvenile may be
32 subject to electronic monitoring, at no cost to the juvenile or the
33 juvenile's parents or guardians, where available; and

34 (c) Juveniles with a prior criminal history score of two or more
35 points shall be sentenced to no less than three days of detention,
36 six months of community supervision, ~~((forty-five))~~ eight hours of
37 community ~~((restitution))~~ service, and a requirement that the
38 juvenile remain at home such that the juvenile is confined in a
39 private residence for no less than seven days. If the juvenile is
40 enrolled in school, the confinement shall be served on nonschool

1 days. The juvenile may be subject to electronic monitoring, at no
2 cost to the juvenile or the juvenile's parents or guardians, where
3 available.

4 **Sec. 27.** RCW 13.40.510 and 2019 c 461 s 1 are each amended to
5 read as follows:

6 (1) In order to receive funds under RCW 13.40.500 through
7 13.40.540, local governments may, through their respective agencies
8 that administer funding for consolidated juvenile services, submit
9 proposals that establish community juvenile accountability programs
10 within their communities. These proposals must be submitted to the
11 department for certification.

12 (2) The proposals must:

13 (a) Demonstrate that the proposals were developed with the input
14 of the local law and justice councils established under RCW
15 72.09.300;

16 (b) Describe how local community groups or members are involved
17 in the implementation of the programs funded under RCW 13.40.500
18 through 13.40.540;

19 (c) Include a description of how the grant funds will contribute
20 to the expected outcomes of the program and the reduction of youth
21 violence and juvenile crime in their community. Data approaches are
22 not required to be replicated if the networks have information that
23 addresses risks in the community for juvenile offenders.

24 (3) A local government receiving a grant under this section shall
25 agree that any funds received must be used efficiently to encourage
26 the use of community-based programs that reduce the reliance on
27 secure confinement as the sole means of holding juvenile offenders
28 accountable for their crimes. The local government shall also agree
29 to account for the expenditure of all funds received under the grant
30 and to submit to audits for compliance with the grant criteria
31 developed under RCW 13.40.520.

32 (4) The department, in consultation with the Washington
33 association of juvenile court administrators and the state law and
34 justice advisory council, shall establish guidelines for programs
35 that may be funded under RCW 13.40.500 through 13.40.540. The
36 guidelines must:

37 (a) Target referred and diverted youth, as well as adjudicated
38 juvenile offenders;

1 (b) Include assessment methods to determine services, programs,
2 and intervention strategies most likely to change behaviors and norms
3 of juvenile offenders;

4 (c) Provide maximum structured supervision in the community.
5 Programs should use natural surveillance and community guardians such
6 as employers, relatives, teachers, clergy, and community mentors to
7 the greatest extent possible;

8 (d) Promote good work ethic values and educational skills and
9 competencies necessary for the juvenile offender to function
10 effectively and positively in the community;

11 (e) Maximize the efficient delivery of treatment services aimed
12 at reducing risk factors associated with the commission of juvenile
13 offenses;

14 (f) Maximize the reintegration of the juvenile offender into the
15 community upon release from confinement;

16 (g) Maximize the juvenile offender's opportunities to make full
17 (~~restitution to the victims and~~) amends to the community;

18 (h) Support and encourage increased court discretion in imposing
19 community-based intervention strategies;

20 (i) Be compatible with research that shows which prevention and
21 early intervention strategies work with juvenile offenders;

22 (j) Be outcome-based in that it describes what outcomes will be
23 achieved or what outcomes have already been achieved;

24 (k) Include an evaluation component; and

25 (l) Recognize the diversity of local needs.

26 (5) The state law and justice advisory council may provide
27 support and technical assistance to local governments for training
28 and education regarding community-based prevention and intervention
29 strategies.

30 (6) For purposes of this section and RCW 13.40.541 and 13.40.511,
31 "referred youth" means a youth who:

32 (a) Was contacted by a law enforcement officer and the law
33 enforcement officer has probable cause to believe that he or she has
34 committed a crime;

35 (b) Was referred to a program that allows youth to enter before
36 being diverted or charged with a juvenile offense; and

37 (c) Would have been diverted or charged with a juvenile offense,
38 if not for the program to which he or she was referred.

1 **Sec. 28.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to
2 read as follows:

3 (1)(a) The court shall hold regular sealing hearings. During
4 these regular sealing hearings, the court shall administratively seal
5 an individual's juvenile record pursuant to the requirements of this
6 subsection. Although the juvenile record shall be sealed, the social
7 file may be available to any juvenile justice or care agency when an
8 investigation or case involving the juvenile subject of the records
9 is being prosecuted by the juvenile justice or care agency or when
10 the juvenile justice or care agency is assigned the responsibility of
11 supervising the juvenile. The juvenile respondent's presence is not
12 required at any administrative sealing hearing.

13 (b) At the disposition hearing of a juvenile offender, the court
14 shall schedule an administrative sealing hearing to take place during
15 the first regularly scheduled sealing hearing after the latest of the
16 following events that apply:

17 (i) The respondent's eighteenth birthday;

18 (ii) Anticipated end date of a respondent's probation, if
19 ordered;

20 (iii) Anticipated release from confinement at the juvenile
21 rehabilitation administration, or the completion of parole, if the
22 respondent is transferred to the juvenile rehabilitation
23 administration.

24 (c) The court shall not schedule an administrative sealing
25 hearing at the disposition and no administrative sealing hearing
26 shall occur if one of the offenses for which the court has entered a
27 disposition is at the time of commission of the offense:

28 (i) A most serious offense, as defined in RCW 9.94A.030;

29 (ii) A sex offense under chapter 9A.44 RCW; or

30 (iii) A drug offense, as defined in RCW 9.94A.030.

31 (d) At the time of the scheduled administrative sealing hearing,
32 the court shall enter a written order sealing the respondent's
33 juvenile court record pursuant to this subsection if the court finds
34 by a preponderance of the evidence that the respondent is no longer
35 on supervision for the case being considered for sealing (~~and has~~
36 ~~paid the full amount of restitution owing to the individual victim~~
37 ~~named in the restitution order, excluding restitution owed to any~~
38 ~~public or private entity providing insurance coverage or health care~~
39 ~~coverage)). In determining whether the respondent is on supervision~~
40 (~~or owes restitution)), the court shall take judicial notice of~~

1 court records, including records of the county clerk, and, if
2 necessary, sworn testimony from a representative of the juvenile
3 department.

4 (e) At the time of the administrative sealing hearing, if the
5 court finds the respondent remains on supervision for the case being
6 considered for sealing, then the court shall continue the
7 administrative sealing hearing to a date within thirty days following
8 the anticipated end date of the respondent's supervision. At the next
9 administrative sealing hearing, the court shall again determine the
10 respondent's eligibility for sealing his or her juvenile court record
11 pursuant to (d) of this subsection, and, if necessary, continue the
12 hearing again as provided in this subsection.

13 ~~(f) (i) ((During the administrative sealing hearing, if the court
14 finds the respondent is no longer on supervision for the case being
15 considered for sealing, but the respondent has not paid the full
16 amount of restitution owing to the individual victim named in the
17 restitution order, excluding any public or private entity providing
18 insurance coverage or health care coverage, the court shall deny
19 sealing the juvenile court record in a written order that: (A)
20 Specifies the amount of restitution that remains unpaid to the
21 original victim, excluding any public or private entity providing
22 insurance coverage or health care coverage; and (B) provides
23 direction to the respondent on how to pursue the sealing of records
24 associated with this cause of action.~~

25 ~~(ii))~~ Within five business days of the entry of the written
26 order denying the request to seal a juvenile court record, the
27 juvenile court department staff shall notify the respondent of the
28 denial by providing a copy of the order of denial to the respondent
29 in person or in writing mailed to the respondent's last known address
30 in the department of licensing database or the respondent's address
31 provided to the court, whichever is more recent.

32 ~~((iii))~~ (ii) At any time following entry of the written order
33 denying the request to seal a juvenile court record, the respondent
34 may contact the juvenile court department ~~(, provide proof of payment
35 of the remaining unpaid restitution to the original victim, excluding
36 any public or private entity providing insurance coverage or health
37 care coverage,)~~ and request an administrative sealing hearing.
38 ~~((Upon verification of the satisfaction of the restitution payment,
39 the juvenile court department staff shall circulate for signature an~~

1 ~~order sealing the file, and file the signed order with the clerk's~~
2 ~~office, who shall seal the record.~~

3 ~~(iv))~~ (iii) The administrative office of the courts must ensure
4 that sealed juvenile records remain private in case of an appeal and
5 are either not posted or redacted from any clerks papers that are
6 posted online with the appellate record, as well as taking any other
7 prudent steps necessary to avoid exposing sealed juvenile records to
8 the public.

9 (2) Except for dismissal of a deferred disposition under RCW
10 13.40.127, the court shall enter a written order immediately sealing
11 the official juvenile court record upon the acquittal after a fact
12 finding or upon the dismissal of charges with prejudice, subject to
13 the state's right, if any, to appeal the dismissal.

14 (3) If a juvenile court record has not already been sealed
15 pursuant to this section, in any case in which information has been
16 filed pursuant to RCW 13.40.100 or a complaint has been filed with
17 the prosecutor and referred for diversion pursuant to RCW 13.40.070,
18 the person who is the subject of the information or complaint may
19 file a motion with the court to have the court vacate its order and
20 findings, if any; ~~((resolve the status of any debts owing;))~~ and,
21 subject to RCW 13.50.050(13), order the sealing of the official
22 juvenile court record, the social file, and records of the court and
23 of any other agency in the case, with the exception of identifying
24 information under RCW 13.50.050(13).

25 (4) (a) The court shall grant any motion to seal records for class
26 A offenses made pursuant to subsection (3) of this section if:

27 (i) Since the last date of release from confinement, including
28 full-time residential treatment, if any, or entry of disposition, the
29 person has spent five consecutive years in the community without
30 committing any offense or crime that subsequently results in an
31 adjudication or conviction;

32 (ii) No proceeding is pending against the moving party seeking
33 the conviction of a juvenile offense or a criminal offense;

34 (iii) No proceeding is pending seeking the formation of a
35 diversion agreement with that person;

36 (iv) The person is no longer required to register as a sex
37 offender under RCW 9A.44.130 or has been relieved of the duty to
38 register under RCW 9A.44.143 if the person was convicted of a sex
39 offense; and

1 (v) The person has not been convicted of rape in the first
2 degree, rape in the second degree, or indecent liberties that was
3 actually committed with forcible compulsion(~~;~~and

4 ~~(vi) The person has paid the full amount of restitution owing to~~
5 ~~the individual victim named in the restitution order, excluding~~
6 ~~restitution owed to any public or private entity providing insurance~~
7 ~~coverage or health care coverage)).~~

8 (b) The court shall grant any motion to seal records for class B,
9 class C, gross misdemeanor, and misdemeanor offenses and diversions
10 made under subsection (3) of this section if:

11 (i) Since the date of last release from confinement, including
12 full-time residential treatment, if any, entry of disposition, or
13 completion of the diversion agreement, the person has spent two
14 consecutive years in the community without being convicted of any
15 offense or crime;

16 (ii) No proceeding is pending against the moving party seeking
17 the conviction of a juvenile offense or a criminal offense;

18 (iii) No proceeding is pending seeking the formation of a
19 diversion agreement with that person; and

20 (iv) The person is no longer required to register as a sex
21 offender under RCW 9A.44.130 or has been relieved of the duty to
22 register under RCW 9A.44.143 if the person was convicted of a sex
23 offense(~~;~~and

24 ~~(v) The person has paid the full amount of restitution owing to~~
25 ~~the individual victim named in the restitution order, excluding~~
26 ~~restitution owed to any insurance provider authorized under Title 48~~
27 ~~RCW)).~~

28 (c) Notwithstanding the requirements in (a) or (b) of this
29 subsection, the court shall grant any motion to seal records of any
30 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,
31 2012, if (~~restitution has been paid and~~) the person is eighteen
32 years of age or older at the time of the motion.

33 (d) Owed restitution shall not be a barrier to record sealing.
34 Records previously deemed ineligible for sealing on the basis of owed
35 restitution shall be automatically sealed by the courts.

36 (5) The person making a motion pursuant to subsection (3) of this
37 section shall give reasonable notice of the motion to the prosecution
38 and to any person or agency whose records are sought to be sealed.

39 (6) (a) If the court enters a written order sealing the juvenile
40 court record pursuant to this section, it shall, subject to RCW

1 13.50.050(13), order sealed the official juvenile court record, the
2 social file, and other records relating to the case as are named in
3 the order. Thereafter, the proceedings in the case shall be treated
4 as if they never occurred, and the subject of the records may reply
5 accordingly to any inquiry about the events, records of which are
6 sealed. Any agency shall reply to any inquiry concerning confidential
7 or sealed records that records are confidential, and no information
8 can be given about the existence or nonexistence of records
9 concerning an individual.

10 (b) In the event the subject of the juvenile records receives a
11 full and unconditional pardon, the proceedings in the matter upon
12 which the pardon has been granted shall be treated as if they never
13 occurred, and the subject of the records may reply accordingly to any
14 inquiry about the events upon which the pardon was received. Any
15 agency shall reply to any inquiry concerning the records pertaining
16 to the events for which the subject received a pardon that records
17 are confidential, and no information can be given about the existence
18 or nonexistence of records concerning an individual.

19 (c) Effective July 1, 2019, the department of licensing may
20 release information related to records the court has ordered sealed
21 only to the extent necessary to comply with federal law and
22 regulation.

23 (7) Inspection of the files and records included in the order to
24 seal may thereafter be permitted only by order of the court upon
25 motion made by the person who is the subject of the information or
26 complaint, except as otherwise provided in RCW 13.50.010(8) and
27 13.50.050(13).

28 (8)(a) Any adjudication of a juvenile offense or a crime
29 subsequent to sealing has the effect of nullifying a sealing order;
30 however, the court may order the juvenile court record resealed upon
31 disposition of the subsequent matter if the case meets the sealing
32 criteria under this section and the court record has not previously
33 been resealed.

34 (b) Any charging of an adult felony subsequent to the sealing has
35 the effect of nullifying the sealing order.

36 (c) The administrative office of the courts shall ensure that the
37 superior court judicial information system provides prosecutors
38 access to information on the existence of sealed juvenile records.

1 (d) The Washington state patrol shall ensure that the Washington
2 state identification system provides Washington state criminal
3 justice agencies access to sealed juvenile records information.

4 (9) If the juvenile court record has been sealed pursuant to this
5 section, the record of an employee is not admissible in an action for
6 liability against the employer based on the former juvenile
7 offender's conduct to show that the employer knew or should have
8 known of the juvenile record of the employee. The record may be
9 admissible, however, if a background check conducted or authorized by
10 the employer contained the information in the sealed record.

11 ~~((County clerks may interact or correspond with the
12 respondent, his or her parents, restitution recipients, and any
13 holders of potential assets or wages of the respondent for the
14 purposes of collecting an outstanding legal financial obligation
15 after juvenile court records have been sealed pursuant to this
16 section.~~

17 ~~((11))~~) Persons and agencies that obtain sealed juvenile records
18 information pursuant to this section may communicate about this
19 information with the respondent, but may not disseminate or be
20 compelled to release the information to any person or agency not
21 specifically granted access to sealed juvenile records in this
22 section.

23 ~~((12))~~) (11) All criminal justice agencies must not disclose
24 confidential information or sealed records accessed through the
25 Washington state identification system or other means, and no
26 information can be given to third parties other than Washington state
27 criminal justice agencies about the existence or nonexistence of
28 confidential or sealed records concerning an individual.

29 **Sec. 29.** RCW 13.50.270 and 2018 c 82 s 5 are each amended to
30 read as follows:

31 (1)(a) Subject to RCW 13.50.050(13), all records maintained by
32 any court or law enforcement agency, including the juvenile court,
33 local law enforcement, the Washington state patrol, and the
34 prosecutor's office, shall be automatically destroyed within ninety
35 days of becoming eligible for destruction. Juvenile records are
36 eligible for destruction when:

37 (i) The person who is the subject of the information or complaint
38 is at least eighteen years of age; and

1 (ii) The records in question consist of successfully completed
2 diversion agreements and counsel and release agreements, or both,
3 which were completed on or after June 7, 2018(~~and~~

4 ~~(iii) There is no restitution owing in the case)~~).

5 (b) Notwithstanding this subsection (1), records of successfully
6 completed diversion agreements and counsel and release agreements
7 remain subject to destruction under the terms set forth in
8 subsections (2) through (4) of this section, as well as sealing under
9 RCW 13.50.260.

10 (c) No less than quarterly, the administrative office of the
11 courts shall provide a report to the juvenile courts of those
12 individuals whose records may be eligible for destruction. The
13 juvenile court shall verify eligibility and notify the Washington
14 state patrol and the appropriate local law enforcement agency and
15 prosecutor's office of the records to be destroyed. The requirement
16 to destroy records under this subsection is not dependent on a court
17 hearing or the issuance of a court order to destroy records.

18 (d) The state and local governments and their officers and
19 employees are not liable for civil damages for the failure to destroy
20 records pursuant to this section.

21 (2) All records maintained by any court or law enforcement
22 agency, including the juvenile court, local law enforcement, the
23 Washington state patrol, and the prosecutor's office, shall be
24 automatically destroyed within thirty days of being notified by the
25 governor's office that the subject of those records received a full
26 and unconditional pardon by the governor.

27 (3) (a) A person may request that the court order the records in
28 his or her case destroyed as follows:

29 (i) A person eighteen years of age or older whose criminal
30 history consists entirely of one diversion agreement or counsel and
31 release entered prior to June 12, 2008. The request shall be granted
32 if the court finds that two years have elapsed since completion of
33 the agreement or counsel and release.

34 (ii) A person twenty-three years of age or older whose criminal
35 history consists of only referrals for diversion. The request shall
36 be granted if the court finds that all diversion agreements have been
37 successfully completed and no proceeding is pending against the
38 person seeking the conviction of a criminal offense.

39 (b) If the court grants the motion to destroy records made
40 pursuant to this subsection, it shall, subject to RCW 13.50.050(13),

1 order the official juvenile court record, the social file, and any
2 other records named in the order to be destroyed.

3 (c) The person making the motion pursuant to this subsection must
4 give reasonable notice of the motion to the prosecuting attorney and
5 to any agency whose records are sought to be destroyed.

6 (4) Any juvenile justice or care agency may, subject to the
7 limitations in RCW 13.50.050(13) and this section, develop procedures
8 for the routine destruction of records relating to juvenile offenses
9 and diversions.

10 (a) Records may be routinely destroyed only when the person the
11 subject of the information or complaint has attained twenty-three
12 years of age or older or pursuant to subsection (1) of this section.

13 (b) The court may not routinely destroy the official juvenile
14 court record or recordings or transcripts of any proceedings.

15 **Sec. 30.** RCW 43.43.7541 and 2018 c 269 s 18 are each amended to
16 read as follows:

17 Every sentence imposed for a crime specified in RCW 43.43.754
18 must include a fee of one hundred dollars unless the state has
19 previously collected the offender's DNA as a result of a prior
20 conviction or the offender is under the age of 18. The fee is a
21 court-ordered legal financial obligation as defined in RCW 9.94A.030
22 and other applicable law. For a sentence imposed under chapter 9.94A
23 RCW, the fee is payable by the offender after payment of all other
24 legal financial obligations included in the sentence has been
25 completed. For all other sentences, the fee is payable by the
26 offender in the same manner as other assessments imposed. The clerk
27 of the court shall transmit eighty percent of the fee collected to
28 the state treasurer for deposit in the state DNA database account
29 created under RCW 43.43.7532, and shall transmit twenty percent of
30 the fee collected to the agency responsible for collection of a
31 biological sample from the offender as required under RCW 43.43.754.
32 This fee shall not be imposed on juvenile offenders (~~if the state~~
33 ~~has previously collected the juvenile offender's DNA as a result of a~~
34 ~~prior conviction~~)).

35 NEW SECTION. **Sec. 31.** The following acts or parts of acts are
36 each repealed:

37 (1) RCW 13.40.056 (Nonrefundable bail fee) and 1995 c 395 s 9;

1 (2) RCW 13.40.085 (Diversion services costs—Fees—Payment by
2 parent or legal guardian) and 1993 c 171 s 1;

3 (3) RCW 13.40.192 (Legal financial obligations—Enforceability—
4 Treatment of obligations upon age of eighteen or conclusion of
5 juvenile court jurisdiction—Extension of judgment—Petition for
6 modification or relief) and 2015 c 265 s 7 & 1997 c 121 s 7;

7 (4) RCW 13.40.198 (Penalty assessments—Jurisdiction of court) and
8 2000 c 71 s 1;

9 (5) RCW 13.40.610 (Youth court notification of satisfaction of
10 conditions) and 2002 c 237 s 12; and

11 (6) RCW 13.40.640 (Youth court nonrefundable fee) and 2002 c 237
12 s 15.

13 NEW SECTION. **Sec. 32.** Section 4 of this act applies
14 retroactively as well as prospectively to allow individuals with
15 valid, unfulfilled restitution orders to participate in the community
16 compensation program.

17 NEW SECTION. **Sec. 33.** Nothing in this act requires the courts
18 to refund or reimburse amounts previously paid towards legal
19 financial obligations, interests on legal financial obligations, or
20 any other costs.

21 NEW SECTION. **Sec. 34.** Section 11 of this act expires when
22 section 10 of this act takes effect.

23 NEW SECTION. **Sec. 35.** Section 10 of this act takes effect when
24 section 3, chapter 206, Laws of 2021 takes effect.

25 NEW SECTION. **Sec. 36.** Section 22 of this act expires when
26 section 23 of this act takes effect.

27 NEW SECTION. **Sec. 37.** Section 23 of this act takes effect when
28 section 4, chapter 206, Laws of 2021 takes effect.

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