

able to respond to the needs of such children with appropriate treatment, supervision, and structure.

Sec. 18. Section 82, chapter 155, Laws of 1979 and RCW 74.13.036 are each amended to read as follows:

The department of social and health services shall oversee implementation of chapter 13.34 RCW and chapter 13.32A RCW. The oversight shall be comprised of working with affected parts of the criminal justice and child care systems as well as with local government, legislative, and executive authorities to effectively carry out these chapters. The department shall work with all such entities to ensure that chapters ~~((155, Laws of 1979 is))~~ 13.32A and 13.34 RCW are implemented in a uniform manner throughout the state. The department shall make ~~((periodic))~~ reports at least quarterly to the governor and to the legislature regarding implementation of the chapters cited in this section and shall report any violations and misunderstandings regarding the implementation thereof. Where appropriate, the department shall request opinions from the attorney general regarding correct construction of these laws.

NEW SECTION. Sec. 19. The committee on institutions of the house of representatives and the committee on judiciary of the senate shall meet as a joint legislative oversight committee to receive the report of the department, and to receive complaints and recommendations from the department and any other criminal justice or child care agency and any parent or parents who have an interest in implementation of the chapters cited in this section.

The joint committee shall meet at least quarterly and rotate the hearings in all regions of the department.

This section shall expire on January 1, 1983.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 26, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 19, 1981.

Filed in Office of Secretary of State May 19, 1981.

CHAPTER 299

[Substitute Senate Bill No. 3190]

JUVENILE OFFENDERS

AN ACT Relating to juveniles; amending section 2, chapter 160, Laws of 1913 as last amended by section 6, chapter 128, Laws of 1980 and RCW 13.04.030; amending section 56, chapter 291, Laws of 1977 ex. sess. as amended by section 54, chapter 155, Laws of 1979 and RCW 13.40.020; amending section 57, chapter 291, Laws of 1977 ex. sess. as

amended by section 55, chapter 155, Laws of 1979 and RCW 13.40.030; amending section 60, chapter 291, Laws of 1977 ex. sess. as amended by section 59, chapter 155, Laws of 1979 and RCW 13.40.060; amending section 61, chapter 291, Laws of 1977 ex. sess. as amended by section 60, chapter 155, Laws of 1979 and RCW 13.40.070; amending section 62, chapter 291, Laws of 1977 ex. sess. as amended by section 61, chapter 155, Laws of 1979 and RCW 13.40.080; amending section 66, chapter 291, Laws of 1977 ex. sess. as amended by section 64, chapter 155, Laws of 1979 and RCW 13.40.120; amending section 67, chapter 291, Laws of 1977 ex. sess. as amended by section 65, chapter 155, Laws of 1979 and RCW 13.40.130; amending section 68, chapter 291, Laws of 1977 ex. sess. as amended by section 66, chapter 155, Laws of 1979 and RCW 13.40.140; amending section 69, chapter 291, Laws of 1977 ex. sess. as amended by section 67, chapter 155, Laws of 1979 and RCW 13.40.150; amending section 70, chapter 291, Laws of 1977 ex. sess. as amended by section 68, chapter 155, Laws of 1979 and RCW 13.40.160; amending section 72, chapter 291, Laws of 1977 ex. sess. and RCW 13.40.180; amending section 77, chapter 291, Laws of 1977 ex. sess. as amended by section 72, chapter 155, Laws of 1979 and RCW 13.40.230; amending section 1, chapter 170, Laws of 1975 1st ex. sess. as amended by section 73, chapter 155, Laws of 1979 and RCW 13.40.300; amending section 3, chapter 240, Laws of 1977 ex. sess. as amended by section 15, chapter 186, Laws of 1980 and RCW 34.08.020; amending section 9, chapter 155, Laws of 1979 and RCW 13.50.050; adding new sections to chapter 13.40 RCW; adding a new section to chapter 9.92 RCW; creating a new section; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 160, Laws of 1913 as last amended by section 6, chapter 128, Laws of 1980 and RCW 13.04.030 are each amended to read as follows:

The juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(1) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(2) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170, as now or hereafter amended;

(3) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210, as now or hereafter amended;

(4) To approve or disapprove alternative residential placement as provided in RCW 13.32A.170;

(5) Relating to children alleged to be or found to be in need of involuntary civil commitment as provided in chapter 72.23 RCW;

(6) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, as now or hereafter amended, unless:

(a) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110, as now or hereafter amended; or

(b) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

(c) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or

older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or subsection (6)(a) of this section; (~~and~~)

(7) Under the interstate compact on juveniles as provided in chapter 13.24 RCW; and

(8) Relating to termination of a diversion agreement under RCW 13.40.080 as now or hereafter amended, including a proceeding in which the divertee has attained eighteen years of age.

Sec. 2. Section 56, chapter 291, Laws of 1977 ex. sess. as amended by section 54, chapter 155, Laws of 1979 and RCW 13.40.020 are each amended to read as follows:

For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

(a) A class A felony, or an attempt to commit a class A felony;

(b) Manslaughter in the first degree(~~(,rape in the first degree,))~~) or rape in the second degree; or

(c) Assault in the second degree, extortion in the first degree, indecent liberties, kidnaping in the second degree, robbery in the second degree, burglary in the second degree, (~~(statutory rape in the first degree,))~~) or statutory rape in the second degree, where such offenses include the infliction of (~~(grievous))~~) bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator (~~(uses))~~) is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth (~~((for a period of time not to exceed one year. Such an order may include one or more of)).~~) A community supervision order for a single offense may be for a period of up to one year and include one or more of the following:

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

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

(c) Attendance of information classes;

(d) Counseling; or

(e) Such other services to the extent funds are available for such services, conditions, or limitations as the court may require which may not include confinement;

(4) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a facility operated by or pursuant to a contract with any county. Confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

(6) "Criminal history" includes all criminal complaints against the respondent (~~where~~) for which, prior to the commission of a current offense:

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

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

(7) "Department" means the department of social and health services;

(8) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender or any other person or entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.04.040, as now or hereafter amended, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

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

(10) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

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

(12) "Manifest injustice" means a disposition that would impose an excessive penalty on the juvenile or a clear danger to society in light of the purposes of this chapter;

(13) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(14) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

(e) One class C felony (~~((except for any felony which is listed in subsection (1) (b) or (c) of this section)))~~) and one misdemeanor or gross misdemeanor;

(f) One class B felony (~~((except for any felony which is listed in subsection (1) (a), (b), or (c) of this section)))~~ except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; rape in the second degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; or statutory rape in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

~~((14))~~ (15) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((15))~~ (16) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((16))~~ (17) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, and lost wages resulting from physical injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((17))~~ (18) "Secretary" means the secretary of the department of social and health services;

~~((18))~~ (19) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((19))~~ (20) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((20))~~ (21) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration.

NEW SECTION. Sec. 3. There is added to chapter 13.40 RCW a new section to read as follows:

(1) There is established a juvenile disposition standards commission to propose disposition standards to the legislature in accordance with RCW 13.40.030 and perform the other responsibilities set forth in this chapter.

(2) The commission shall be composed of the secretary or the secretary's designee and the following eight members appointed by the governor, subject to confirmation by the senate: (a) A superior court judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c) a law enforcement officer; (d) an administrator of juvenile court services; (e) a public defender actively practicing in juvenile court; and (f) three other persons who have demonstrated significant interest in the adjudication and disposition of juvenile offenders. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; of Washington prosecutors in respect to the prosecuting attorney or deputy prosecuting attorney member; of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer; of juvenile court administrators in respect to the member who is a juvenile court administrator; and of the state bar association in respect to the public defender member.

(3) The secretary or the secretary's designee shall serve as chairman of the commission.

(4) The secretary shall serve on the commission during the secretary's tenure as secretary of the department. The term of the remaining members of the commission shall be three years. The initial terms shall be determined by lot conducted at the commission's first meeting as follows: (a) Four members shall serve a two-year term; and (b) four members shall serve a three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

(6) The commission's first meeting shall be held prior to January 1, 1982. Thereafter, the commission shall meet at least once every six months.

NEW SECTION. Sec. 4. There is added to chapter 13.40 RCW a new section to read as follows:

(1) It is the responsibility of the commission to: (a) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010; (b) solicit the comments and suggestions of the juvenile justice community concerning disposition standards; and (c) develop and propose to the legislature modifications of the disposition standards in accordance with RCW 13.40.030.

(2) It is the responsibility of the department to: (a) Provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders; (b) at the request of the commission, provide technical and administrative assistance to the commission in the performance of its responsibilities; and (c) provide the commission with recommendations for modification of the disposition standards.

Sec. 5. Section 57, chapter 291, Laws of 1977 ex. sess. as amended by section 55, chapter 155, Laws of 1979 and RCW 13.40.030 are each amended to read as follows:

(1) (a) The ~~((secretary))~~ juvenile disposition standards commission shall propose to the legislature no later than November 1st of each even-numbered year disposition standards for all offenses. The standards shall establish, in accordance with the purposes of this chapter, ranges which may include terms of confinement and/or community supervision established on the basis of a youth's age, the instant offense, and the history and seriousness of previous offenses, but in no case may the period of confinement and supervision exceed that to which an adult may be subjected for the same offense(s). Standards proposed for offenders listed in RCW 13.40.020(1) shall include a range of confinement which may not be less than thirty days. No standard range may include a period of confinement which includes both more than thirty, and thirty or less, days. Disposition standards proposed by the ~~((department))~~ commission shall provide that in all cases where a youth is sentenced to a term of confinement in excess of thirty days the department may impose an additional period of parole not to exceed eighteen months. Standards of confinement which may be proposed may relate only to the length of the proposed terms and not to the nature of the security to be imposed.

(b) The secretary shall ~~((also))~~ submit guidelines pertaining to the nature of the security to be imposed on youth placed in his or her custody based on the age, offense(s), and criminal history of the juvenile offender. Such guidelines shall be submitted to the legislature for its review ~~((at the same time the department proposes its disposition standards))~~ no later than November 1st of each even-numbered year.

(2) If the commission fails to propose disposition standards as provided in this section, the existing standards shall remain in effect and may be adopted by the legislature or referred to the commission for modification as provided in subsection (3) of this section. If the standards are referred for modification, the provisions of subsection (4) shall be applicable.

(3) The legislature may adopt the proposed standards or refer the proposed standards to the ~~((secretary))~~ commission for modification. If the legislature fails to adopt or refer the proposed standards to the ~~((secretary))~~

commission by February 15th of the following year, the proposed standards shall take effect without legislative approval on July 1st of that year.

~~((3))~~ (4) If the legislature refers the proposed standards to the ~~((secretary))~~ commission for modification on or before February 15th, the ~~((secretary))~~ commission shall resubmit the proposed modifications to the legislature no later than March 1st. The legislature may adopt or modify the resubmitted proposed standards. If the legislature fails to adopt or modify the resubmitted proposed standards by April 1st, the resubmitted proposed standards shall take effect without legislative approval on July 1st of that year.

~~((4))~~ Notwithstanding any other provision of this section, the secretary shall propose standards and submit guidelines to the legislature no later than November 1, 1977. The legislature shall consider the proposed standards and submitted guidelines during the following year in the manner prescribed by subsections (2) and (3) of this section. Such standards shall be in effect for the period July 1, 1978, to June 30, 1979.

~~(5)~~ Any term of confinement in excess of thirty days shall be served at a facility operated by or pursuant to a contract with the state of Washington.

~~(6))~~ (5) In developing and promulgating the permissible ranges of confinement under this section the ~~((secretary))~~ commission shall be subject to the following limitations:

(a) Where the maximum term in the range is ninety days or less, the minimum term in the range may be no less than fifty percent of the maximum term in the range;

(b) Where the maximum term in the range is greater than ninety days but not greater than one year, the minimum term in the range may be no less than seventy-five percent of the maximum term in the range; and

(c) Where the maximum term in the range is more than one year, the minimum term in the range may be no less than eighty percent of the maximum term in the range.

Sec. 6. Section 60, chapter 291, Laws of 1977 ex. sess. as amended by section 59, chapter 155, Laws of 1979 and RCW 13.40.060 are each amended to read as follows:

(1) Proceedings under this chapter shall be commenced in the county where the juvenile resides. However, proceedings may be commenced in the county where an element of the alleged criminal offense occurred if so requested by the juvenile or by the prosecuting attorney of the county where the incident occurred.

(2) If the hearing takes place in the county where an element of the alleged criminal offense occurred, the case and copies of all legal and social documents pertaining thereto may in the discretion of the court be transferred to the county where the juvenile resides for a disposition hearing. All

costs and arrangements for care and transportation of the juvenile in custody shall be the responsibility of the receiving county as of the date of the transfer of the juvenile to such county, unless the counties otherwise agree.

(3) If the adjudicatory and disposition hearings take place in a county in which an element of the alleged offense occurred, the case and copies of all legal and social documents pertaining thereto may in the discretion of the court be transferred to the county in which the juvenile resides for supervision and enforcement of the disposition order. The court of the receiving county has jurisdiction to modify and enforce the disposition order.

(4) The court upon motion of any party or upon its own motion may, at any time, transfer a proceeding to another juvenile court when:

(a) There is reason to believe that an impartial proceeding cannot be held in the county in which the proceeding was begun; or

(b) It appears that venue is incorrect under this section.

Sec. 7. Section 61, chapter 291, Laws of 1977 ex. sess. as amended by section 60, chapter 155, Laws of 1979 and RCW 13.40.070 are each amended to read as follows:

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

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

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

(2) If the requirements of subsections (1) (a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (4), (5) and (6) of this section. If the prosecutor neither files nor diverts the case, he shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

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

(4) Where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, assault in the third degree, rape in the third degree, or any other offense listed in RCW 13.40.020(1) (b) or (c); or

(b) An alleged offender is accused of a felony and has a criminal history of at least one class A or class B felony, or two class C felonies, or at least two gross misdemeanors, or at least two misdemeanors and one additional

misdeemeanor or gross misdemeanor, or at least one class C felony and one misdemeanor or gross misdemeanor; or

(c) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion.

(5) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense(s) in combination with the alleged offender's criminal history do not exceed three offenses or violations and do not include any felonies: PROVIDED, That if the alleged offender is charged with a related offense that must or may be filed under subsections (4) and (6) of this section, a case under this subsection may also be filed.

(6) Where a case is legally sufficient and falls into neither subsection (4) nor (5) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(7) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversionary interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile.

(8) The responsibilities of the prosecutor under subsections (1) through (7) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

Sec. 8. Section 62, chapter 291, Laws of 1977 ex. sess. as amended by section 61, chapter 155, Laws of 1979 and RCW 13.40.080 are each amended to read as follows:

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

(2) A diversion agreement shall be limited to:

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

(b) Restitution limited to the amount of actual loss incurred by the victim, and to an amount the juvenile has the means or potential means to pay; and

(c) ~~((An informational, educational, or counseling interview, which may be required))~~ Attendance at up to two hours of counseling and/or up to ten

hours of educational or informational sessions at a community agency; PROVIDED, That the state shall not be liable for costs resulting from the diversionary unit exercising the option to permit diversion agreements to mandate attendance at up to two hours of counseling and/or up to ten hours of educational or informational sessions.

(3) In assessing periods of community service to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall to the extent possible involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(4) A diversion agreement may not exceed a period of six months for a misdemeanor or gross misdemeanor or one year for a felony and may include a period extending beyond the eighteenth birthday of the diveree. Any restitution assessed during its term may not exceed an amount which the juvenile could be reasonably expected to pay during this period. If additional time is necessary for the juvenile to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) In juvenile court if the divertee is under eighteen years of age; or
- (ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

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

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

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(6) as now or hereafter amended. A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversionary unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

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

- (a) The fact that a charge or charges were made;
- (b) The fact that a diversion agreement was entered into;
- (c) The juvenile's obligations under such agreement;
- (d) Whether the alleged offender performed his or her obligations under such agreement; and
- (e) The facts of the alleged offense.

(10) A diversionary unit may refuse to enter into a diversion agreement with a juvenile. It shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile fails to make restitution or perform community service as required by the diversion agreement.

(11) A diversionary unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and

release or release such a juvenile without entering into a diversion agreement: PROVIDED, That any juvenile so handled shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(6) as now or hereafter amended. A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language: PROVIDED FURTHER, That a juvenile determined to be eligible by a diversionary unit for such release shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

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

Sec. 9. Section 66, chapter 291, Laws of 1977 ex. sess. as amended by section 64, chapter 155, Laws of 1979 and RCW 13.40.120 are each amended to read as follows:

~~((The court shall hold an adjudicatory hearing on the information, and, after it has announced its findings of fact and its decision, shall hold a hearing to consider disposition of the case pursuant to RCW 13.40.150 and 13.40.160, as now or hereafter amended, immediately following the adjudicatory hearing or at a continued hearing within fourteen days unless good cause is shown for a further continuance. Notice of the time and place of the continued hearing may be given in open court. If notice is not given in open court to a party, that party shall be notified by mail of the time and place of any continued hearing.))~~

All hearings may be conducted at any time or place within the limits of the ((county)) judicial district, and such cases may not be heard in conjunction with other business of any other division of the superior court.

Sec. 10. Section 67, chapter 291, Laws of 1977 ex. sess. as amended by section 65, chapter 155, Laws of 1979 and RCW 13.40.130 are each amended to read as follows:

(1) The respondent shall be advised of the allegations in the information and shall be required to plead guilty or not guilty to the allegation(s). The state or the respondent may make preliminary motions up to the time of the plea.

(2) If the respondent pleads guilty, the court may proceed with disposition or may continue the case for a dispositional hearing. If the respondent denies guilt, ((a)) an adjudicatory hearing date shall be set.

(3) At the adjudicatory hearing it shall be the burden of the prosecution to prove the allegations of the information beyond a reasonable doubt.

(4) The court shall record its findings of fact and shall enter its decision upon the record. Such findings shall set forth the evidence relied upon by the court in reaching its decision.

(5) If the respondent is found not guilty he or she shall be released from detention.

(6) If the respondent is found guilty the court may immediately proceed to disposition or may continue the case for a dispositional hearing. Notice of the time and place of the continued hearing may be given in open court. If notice is not given in open court to a party, the party shall be notified by mail of the time and place of the continued hearing.

(7) The court following an adjudicatory hearing may request that a predisposition study be prepared to aid the court in its evaluation of the matters relevant to disposition of the case.

(8) The disposition hearing shall be held within fourteen days after the adjudicatory hearing or plea of guilty unless good cause is shown for further delay, or within twenty-one days if the juvenile is not held in a detention facility, unless good cause is shown for further delay.

(9) In sentencing an offender, the court shall use the disposition standards in effect on the date of the offense.

Sec. 11. Section 68, chapter 291, Laws of 1977 ex. sess. as amended by section 66, chapter 155, Laws of 1979 and RCW 13.40.140 are each amended to read as follows:

(1) A juvenile shall be advised of his or her rights when appearing before the court.

(2) A juvenile and his or her parent, guardian, or custodian shall be advised by the court or its representative that the juvenile has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a juvenile who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the juvenile's family, in any proceeding where the juvenile may be subject to transfer for criminal prosecution, or in any proceeding where the juvenile may be in danger of confinement. The ability to pay part of the cost of counsel does not preclude assignment. In no case may a juvenile be deprived of counsel because of a parent, guardian, or custodian refusing to pay therefor. The juvenile shall be fully advised of his or her right to an attorney and of the relevant services an attorney can provide.

(3) The right to counsel includes the right to the appointment of experts necessary, and the experts shall be required pursuant to the procedures and requirements established by the supreme court.

(4) Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing, or such subpoenas may be issued by an attorney of record.

(5) All proceedings shall be transcribed verbatim by means which will provide an accurate record.

(6) The general public and press shall be permitted to attend any hearing unless the court, for good cause, orders a particular hearing to be closed. The presumption shall be that all such hearings will be open.

(7) In all adjudicatory proceedings before the court, all parties shall have the right to adequate notice, discovery as provided in criminal cases, opportunity to be heard, confrontation of witnesses except in such cases as this chapter expressly permits the use of hearsay testimony, findings based solely upon the evidence adduced at the hearing, and an unbiased fact-finder.

(8) A juvenile shall be accorded the same privilege against self-incrimination as an adult. An extrajudicial statement which would be constitutionally inadmissible in a criminal proceeding may not be received in evidence at an adjudicatory hearing over objection. Evidence illegally seized or obtained may not be received in evidence over objection at an adjudicatory hearing to prove the allegations against the juvenile if the evidence would be inadmissible in an adult criminal proceeding. An extrajudicial admission or confession made by the juvenile out of court is insufficient to support a finding that the juvenile committed the acts alleged in the information unless evidence of a corpus delicti is first independently established in the same manner as required in an adult criminal proceeding.

(9) Waiver of any right which a juvenile has under this chapter must be an express waiver intelligently made by the juvenile after the juvenile has been fully informed of the right being waived.

(10) Whenever this chapter refers to waiver or objection by a juvenile, the word juvenile shall be construed to refer to a juvenile who is at least twelve years of age. If a juvenile is under twelve years of age, the juvenile's parent, guardian, or custodian shall give any waiver or offer any objection contemplated by this chapter.

Sec. 12. Section 69, chapter 291, Laws of 1977 ex. sess. as amended by section 67, chapter 155, Laws of 1979 and RCW 13.40.150 are each amended to read as follows:

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

(2) For purposes of disposition:

- (a) Violations which are current offenses count as misdemeanors;
- (b) Violations may not count as part of the offender's criminal history;
- (c) In no event may a disposition for a violation include confinement.

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

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

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

(c) Consider any predisposition reports;

(d) Afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

(e) Allow the victim or a representative of the victim and an investigative law enforcement officer to speak;

(f) Determine the amount of restitution owing to the victim, if any;

(g) Determine whether the respondent is a serious offender, a middle offender, or a minor or first offender;

(h) Consider whether or not any of the following mitigating factors exist:

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

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

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

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

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

(i) Consider whether or not any of the following aggravating factors exist:

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

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

(iii) The victim or victims were particularly vulnerable;

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

(v) The respondent was the leader of a criminal enterprise involving several persons; and

(vi) There are other complaints which have resulted in diversion or a finding or plea of guilty but which are not included as criminal history.

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

- (a) The sex of the respondent;
- (b) The race or color of the respondent or the respondent's family;
- (c) The creed or religion of the respondent or the respondent's family;
- (d) The economic or social class of the respondent or the respondent's family; and

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

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

Sec. 13. Section 70, chapter 291, Laws of 1977 ex. sess. as amended by section 68, chapter 155, Laws of 1979 and RCW 13.40.160 are each amended to read as follows:

(1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(~~((6))~~)(5), as now or hereafter amended, shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230 as now or hereafter amended.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition. A disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(~~((6))~~)(5), as now or hereafter amended, shall be used to determine the range. Any disposition

other than community supervision may be appealed as provided in RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition of community supervision may not be appealed under RCW 13.40.230 as now or hereafter amended.

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2) as now or hereafter amended.

(4) ~~((Where))~~ If a respondent is found to ((have committed an offense which is neither a serious nor a minor or first offense)) be a middle offender:

(a) The court shall impose a determinate disposition within the standard range(s) for such offense: PROVIDED, That if the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) The court shall impose a determinate disposition of community supervision and/or up to thirty days confinement in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150 as now or hereafter amended.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4) (a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030~~((6))~~(5), as now or hereafter amended, shall be used to determine the range.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230 as now or hereafter amended.

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

(6) In its dispositional order, the court shall not suspend or defer the imposition or the execution of the disposition.

Sec. 14. Section 72, chapter 291, Laws of 1977 ex. sess. and RCW 13.40.180 are each amended to read as follows:

Where a disposition is imposed on a youth for two or more offenses, the terms shall run consecutively, subject to the following limitations:

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

(2) ~~((in all other cases;))~~ The aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense; and

(3) The aggregate of all consecutive terms of community supervision shall not exceed two years in length, or require payment of more than two hundred dollars in fines or the performance of more than two hundred hours of community service.

NEW SECTION. Sec. 15. There is added to chapter 13.40 RCW a new section to read as follows:

Any term of confinement imposed for an offense which exceeds thirty days shall be served under the supervision of the department. If the period of confinement imposed for more than one offense exceeds thirty days but the term imposed for each offense is less than thirty days, the confinement may, in the discretion of the court, be served in a juvenile facility operated by or pursuant to a contract with the state or a county.

Sec. 16. Section 77, chapter 291, Laws of 1977 ex. sess. as amended by section 72, chapter 155, Laws of 1979 and RCW 13.40.230 are each amended to read as follows:

(1) Dispositions reviewed pursuant to RCW 13.40.160, as now or hereafter amended, shall be reviewed in the appropriate division of the court of appeals.

An appeal under this section shall be heard solely upon the record that was before the disposition court. No written briefs may be required, and the appeal shall be heard within thirty days following the date of sentencing and a decision rendered within fifteen days following the argument. The supreme court shall promulgate any necessary rules to effectuate the purposes of this section.

(2) To uphold a disposition outside the standard range, or which imposes confinement for a minor or first offender, the court of appeals must find (a) that the reasons supplied by the disposition judge are supported by the record which was before the judge and that those reasons clearly and convincingly support the conclusion that a disposition within the range, or non-confinement for a minor or first offender, would constitute a manifest injustice, and (b) that the sentence imposed was neither clearly excessive nor clearly too lenient.

(3) If the court does not find subsection (2)(a) of this section it shall remand the case for disposition within the standard range or for community supervision without confinement as would otherwise be appropriate pursuant to this chapter.

(4) If the court finds subsection (2)(a) but not subsection (2)(b) of this section it shall remand the case with instructions for further proceedings consistent with the provisions of this chapter.

(5) Pending appeal, a respondent may not be committed or detained for a period of time in excess of the standard range for the offense(s) committed ~~((and may not be detained if a first or minor offender. PROVIDED; That if the order of the disposition court is below the standard range, the respondent shall be committed or detained for no longer than the term set by the disposition court))~~ or sixty days, whichever is longer. The disposition court may impose conditions on release pending appeal as provided in RCW 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of commitment or detention specified in this subsection, the court may also impose such conditions on the respondent's release pending disposition of the appeal.

(6) Appeal of a disposition under this section does not affect the finality or appeal of the underlying adjudication of guilt.

Sec. 17. Section 1, chapter 170, Laws of 1975 1st ex. sess. as amended by section 73, chapter 155, Laws of 1979 and RCW 13.40.300 are each amended to read as follows:

(1) In no case may a juvenile offender be committed by the juvenile court to the department of social and health services for placement in a juvenile correctional institution beyond the juvenile offender's twenty-first birthday. A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of social and health services beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) The juvenile court has committed the juvenile offender to the department of social and health services for a sentence consisting of the standard range of disposition for the offense and the sentence includes a period beyond the juvenile offender's eighteenth birthday; or

(b) The juvenile court has committed the juvenile offender to the department of social and health services for a sentence outside the standard range of disposition for the offense and the sentence includes a period beyond the juvenile's eighteenth birthday and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile offender for that period; or

(c) Proceedings are pending seeking the adjudication of a juvenile offense or seeking ~~((an order of))~~ a disposition order or the enforcement of such an order and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday.

(2) In no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday.

(3) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older.

Sec. 18. Section 3, chapter 240, Laws of 1977 ex. sess. as amended by section 15, chapter 186, Laws of 1980 and RCW 34.08.020 are each amended to read as follows:

There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04-.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification; (~~and~~)

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register; and

(7) Juvenile disposition standards and security guidelines proposed and adopted under RCW 13.40.030.

Sec. 19. Section 9, chapter 155, Laws of 1979 and RCW 13.50.050 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section and RCW 13.50.010.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being

pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized.

(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding may be released to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system may be released to the adult corrections system.

(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:

(a) Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; and

(c) No proceeding is pending seeking the formation of a diversion agreement with that person.

(12) The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(13) If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

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

(15) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order.

(16) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(17) The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:

- (a) The person making the motion is at least twenty-three years of age;
- (b) The person has not subsequently been convicted of a felony;
- (c) No proceeding is pending against that person seeking the conviction of a criminal offense; and
- (d) The person has never been found guilty of a serious offense.

(18) A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted if the court finds that two years have elapsed since completion of the diversion agreement.

(19) If the court grants the motion to destroy records made pursuant to subsection (16) or (18) of this section, it shall order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

~~((19))~~ (20) The person making the motion pursuant to subsection (16) or (18) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

~~((20))~~ (21) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

~~((21))~~ (22) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

~~((22))~~ (23) Any juvenile justice or care agency may, subject to the limitations in subparagraphs (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older.

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

NEW SECTION. Sec. 20. The provisions of chapters 13.04 and 13.40 RCW, as now or hereafter amended, shall be the exclusive authority for the adjudication and disposition of juvenile offenders except where otherwise expressly provided.

NEW SECTION. Sec. 21. There is added to chapter 9.92 RCW a new section to read as follows:

No provision of this chapter shall authorize a court to suspend or defer the imposition or the execution of a disposition under chapter 13.40 RCW, as now law or hereafter amended.

NEW SECTION. Sec. 22. There is hereby appropriated to the department of social and health services \$3,918 from the general fund to carry out the purposes of this 1981 act.

NEW SECTION. Sec. 23. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 19, 1981.

Filed in Office of Secretary of State May 19, 1981.