

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. The tax revenues which units of local government may consider include sales taxes that the unit of local government imposes upon the sale of such supplies, materials, or equipment from the supplier to the unit of local government, and business and occupation taxes that the unit of local government imposes upon the supplier that are measured by the gross receipts of the supplier from such sale. Any unit of local government which considers tax revenues it would receive from the imposition of taxes upon a supplier located within its boundaries, shall also consider tax revenues it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) As used in this section, the term "unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

Passed the Senate March 11, 1985.

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## CHAPTER 73

[Substitute Senate Bill No. 3087]

### JUVENILE DIVERSION AGREEMENTS—FINES—IMPOSITION AND COLLECTION AUTHORITY CONTINUED

AN ACT Relating to juvenile offenders; amending RCW 13.40.030 and 13.40.080; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 57, chapter 291, Laws of 1977 ex. sess. as last amended by section 6, chapter 191, Laws of 1983 and RCW 13.40.030 are each amended to read as follows:

(1) (a) The 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 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. In developing proposed disposition standards (~~between July 24, 1983 and June 30, 1985~~), the commission shall consider the capacity of the state juvenile facilities and the projected impact of the proposed standards on that capacity (~~through June 30, 1985~~).

(b) The secretary shall 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 no later than November 1st of each even-numbered year. At the same time the secretary shall submit a report on security at juvenile facilities during the preceding two-year period. The report shall include the number of escapes from each juvenile facility, the most serious offense for which each escapee had been confined, the number and nature of offenses found to have been committed by juveniles while on escape status, the number of authorized leaves granted, the number of failures to comply with leave requirements, the number and nature of offenses committed while on leave, and the number and nature of offenses committed by juveniles while in the community on minimum security status; to the extent this information is available to the secretary. The department shall include security status definitions in the security guidelines it submits to the legislature pursuant to this section.

(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 commission for modification. If the legislature fails to adopt or refer the proposed standards to the commission by February 15th of the following year, the proposed standards shall take effect without legislative approval on July 1st of that year.

(4) If the legislature refers the proposed standards to the commission for modification on or before February 15th, the 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.

(5) In developing and promulgating the permissible ranges of confinement under this section the 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. 2. Section 62, chapter 291, Laws of 1977 ex. sess. as last amended by section 16, chapter 191, Laws of 1983 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;

(c) 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; and

(d) A fine, not to exceed one hundred dollars. In determining the amount of the fine, the diversion unit shall consider only the juvenile's financial resources and whether the juvenile has the means to pay the fine. The diversion unit shall not consider the financial resources of the juvenile's parents, guardian, or custodian in determining the fine to be imposed.

(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 divertee. 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) Divertees and potential divertees 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 divertee 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 divertee;

(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 divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee 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 violates the terms of 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 diverttee's eighteenth birthday.

(13) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the diverttee and with the concurrence of the diversion unit to convert an unpaid fine into community service. The modification of the diversion agreement shall be in writing and signed by the diverttee and the diversion unit. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(14) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

~~((15) The authority to impose and collect fines under this section shall terminate on June 30, 1985.))~~

**NEW SECTION.** Sec. 3. 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 June 30, 1985.

Passed the Senate March 12, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

## CHAPTER 74

[Substitute House Bill No. 520]

### INDUSTRIAL LOAN COMPANIES—INTEREST RATES—OPEN-END LOANS

AN ACT Relating to industrial loan companies; amending RCW 31.04.090 and 31.04.100; and adding a new section to chapter 31.04 RCW.

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