

RCW 13.40.165 Substance use disorder or mental health

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

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

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

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

- (a) Whether inpatient and/or outpatient treatment is recommended;
- (b) Availability of appropriate treatment;
- (c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (d) Anticipated length of treatment; and
- (e) Recommended crime-related prohibitions.

(5) The court on its own motion may order, or on a motion by the state or the respondent shall order, a second examination. The evaluator shall be selected by the party making the motion. The

requesting party shall pay the cost of any examination ordered under this subsection unless the requesting party is the offender and the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

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

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

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

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

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

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

(9) 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.

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

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

(12) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health, substance use disorder, and/or co-occurring disorder evaluations, treatment, and costs of supervision required under this section shall be paid by the health care authority. [2019 c 325 § 5007; 2016 c 106 § 3; 2004 c 120 § 5; 2003 c 378 § 6. Prior: 2002 c 175 § 23; 2002 c 42 § 1; 2001 c 164 § 1; 1997 c 338 § 26.]

***Reviser's note:** Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 sp.s. c 29 §§ 301, 601, and 701.

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2004 c 120: See note following RCW 13.40.010.

Effective date—2002 c 175: See note following RCW 7.80.130.

Effectiveness standards—1997 c 338 § 26: "The University of Washington shall develop standards for measuring effectiveness of treatment programs established under section 26 of this act. The standards shall be developed and presented to the governor and legislature not later than January 1, 1998. The standards shall include methods for measuring success factors following treatment. Success factors shall include, but need not be limited to, continued use of alcohol or controlled substances, arrests, violations of terms of community supervision, and convictions for subsequent offenses." [1997 c 338 § 27.]

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Severability—Effective dates—1997 c 338: See notes following RCW 5.60.060.