

HOUSE BILL 2944

State of Washington 61st Legislature 2010 Regular Session

By Representatives O'Brien and Ericks

Read first time 01/19/10. Referred to Committee on Human Services.

1 AN ACT Relating to juvenile firearms crimes; amending RCW
2 13.40.193, 13.40.160, and 13.40.165; and reenacting and amending RCW
3 13.40.0357.

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

5 Sec. 1. RCW 13.40.0357 and 2008 c 230 s 3 and 2008 c 158 s 1 are
6 each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

		JUVENILE DISPOSITION
JUVENILE		CATEGORY FOR
DISPOSITION		ATTEMPT, BAILJUMP,
OFFENSE		CONSPIRACY, OR
CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
.....		

Arson and Malicious Mischief

A Arson 1 (9A.48.020) B+

1	B	Arson 2 (9A.48.030)	C
2	C	Reckless Burning 1 (9A.48.040)	D
3	D	Reckless Burning 2 (9A.48.050)	E
4	B	Malicious Mischief 1 (9A.48.070)	C
5	C	Malicious Mischief 2 (9A.48.080)	D
6	D	Malicious Mischief 3 (9A.48.090(2) (a)	
7		and (c))	E
8	E	Malicious Mischief 3 (9A.48.090(2)(b))	E
9	E	Tampering with Fire Alarm Apparatus	
10		(9.40.100)	E
11	E	Tampering with Fire Alarm Apparatus	
12		with Intent to Commit Arson (9.40.105)	E
13	A	Possession of Incendiary Device	
14		(9.40.120)	B+
15		<b>Assault and Other Crimes Involving</b>	
16		<b>Physical Harm</b>	
17	A	Assault 1 (9A.36.011)	B+
18	B+	Assault 2 (9A.36.021)	C+
19	C+	Assault 3 (9A.36.031)	D+
20	D+	Assault 4 (9A.36.041)	E
21	B+	Drive-By Shooting (9A.36.045)	C+
22	D+	Reckless Endangerment (9A.36.050)	E
23	C+	Promoting Suicide Attempt (9A.36.060)	D+
24	D+	Coercion (9A.36.070)	E
25	C+	Custodial Assault (9A.36.100)	D+
26		<b>Burglary and Trespass</b>	
27	B+	Burglary 1 (9A.52.020)	C+
28	B	Residential Burglary (9A.52.025)	C
29	B	Burglary 2 (9A.52.030)	C
30	D	Burglary Tools (Possession of)	
31		(9A.52.060)	E
32	D	Criminal Trespass 1 (9A.52.070)	E
33	E	Criminal Trespass 2 (9A.52.080)	E
34	C	Mineral Trespass (78.44.330)	C
35	C	Vehicle Prowling 1 (9A.52.095)	D
36	D	Vehicle Prowling 2 (9A.52.100)	E

1		<b>Drugs</b>	
2	E	Possession/Consumption of Alcohol	
3		(66.44.270)	E
4	C	Illegally Obtaining Legend Drug	
5		(69.41.020)	D
6	C+	Sale, Delivery, Possession of Legend Drug	
7		with Intent to Sell (69.41.030(2)(a))	D+
8	E	Possession of Legend Drug	
9		(69.41.030(2)(b))	E
10	B+	Violation of Uniform Controlled	
11		Substances Act - Narcotic,	
12		Methamphetamine, or Flunitrazepam Sale	
13		(69.50.401(2) (a) or (b))	B+
14	C	Violation of Uniform Controlled	
15		Substances Act - Nonnarcotic Sale	
16		(69.50.401(2)(c))	C
17	E	Possession of Marihuana <40 grams	
18		(69.50.4014)	E
19	C	Fraudulently Obtaining Controlled	
20		Substance (69.50.403)	C
21	C+	Sale of Controlled Substance for Profit	
22		(69.50.410)	C+
23	E	Unlawful Inhalation (9.47A.020)	E
24	B	Violation of Uniform Controlled	
25		Substances Act - Narcotic,	
26		Methamphetamine, or Flunitrazepam	
27		Counterfeit Substances (69.50.4011(2) (a)	
28		or (b))	B
29	C	Violation of Uniform Controlled	
30		Substances Act - Nonnarcotic Counterfeit	
31		Substances (69.50.4011(2) (c), (d), or (e))	C
32	C	Violation of Uniform Controlled	
33		Substances Act - Possession of a	
34		Controlled Substance (69.50.4013)	C
35	C	Violation of Uniform Controlled	
36		Substances Act - Possession of a	
37		Controlled Substance (69.50.4012)	C

1		<b>Firearms and Weapons</b>	
2	B	Theft of Firearm (9A.56.300)	C
3	B	Possession of Stolen Firearm (9A.56.310)	C
4	E	Carrying Loaded Pistol Without Permit	
5		(9.41.050)	E
6	A-	<u>Unlawful Possession of a Firearm 1</u>	
7		<u>(9.41.040(1))</u>	B±
8	((€)) B±	Possession of Firearms by Minor (<18)	
9		(9.41.040(2)(a)(iii))	C±
10	D+	Possession of Dangerous Weapon	
11		(9.41.250)	E
12	D	Intimidating Another Person by use of	
13		Weapon (9.41.270)	E
14		<b>Homicide</b>	
15	A+	Murder 1 (9A.32.030)	A
16	A+	Murder 2 (9A.32.050)	B+
17	B+	Manslaughter 1 (9A.32.060)	C+
18	C+	Manslaughter 2 (9A.32.070)	D+
19	B+	Vehicle Homicide (46.61.520)	C+
20		<b>Kidnapping</b>	
21	A	Kidnap 1 (9A.40.020)	B+
22	B+	Kidnap 2 (9A.40.030)	C+
23	C+	Unlawful Imprisonment (9A.40.040)	D+
24		<b>Obstructing Governmental Operation</b>	
25	D	Obstructing a Law Enforcement Officer	
26		(9A.76.020)	E
27	E	Resisting Arrest (9A.76.040)	E
28	B	Introducing Contraband 1 (9A.76.140)	C
29	C	Introducing Contraband 2 (9A.76.150)	D
30	E	Introducing Contraband 3 (9A.76.160)	E
31	B+	Intimidating a Public Servant (9A.76.180)	C+
32	B+	Intimidating a Witness (9A.72.110)	C+
33		<b>Public Disturbance</b>	
34	C+	Riot with Weapon (9A.84.010(2)(b))	D+
35	D+	Riot Without Weapon (9A.84.010(2)(a))	E
36	E	Failure to Disperse (9A.84.020)	E

1	E	Disorderly Conduct (9A.84.030)	E
2		<b>Sex Crimes</b>	
3	A	Rape 1 (9A.44.040)	B+
4	A-	Rape 2 (9A.44.050)	B+
5	C+	Rape 3 (9A.44.060)	D+
6	A-	Rape of a Child 1 (9A.44.073)	B+
7	B+	Rape of a Child 2 (9A.44.076)	C+
8	B	Incest 1 (9A.64.020(1))	C
9	C	Incest 2 (9A.64.020(2))	D
10	D+	Indecent Exposure (Victim <14)	
11		(9A.88.010)	E
12	E	Indecent Exposure (Victim 14 or over)	
13		(9A.88.010)	E
14	B+	Promoting Prostitution 1 (9A.88.070)	C+
15	C+	Promoting Prostitution 2 (9A.88.080)	D+
16	E	O & A (Prostitution) (9A.88.030)	E
17	B+	Indecent Liberties (9A.44.100)	C+
18	A-	Child Molestation 1 (9A.44.083)	B+
19	B	Child Molestation 2 (9A.44.086)	C+
20	C	Failure to Register as a Sex Offender	
21		(9A.44.130)	D
22		<b>Theft, Robbery, Extortion, and Forgery</b>	
23	B	Theft 1 (9A.56.030)	C
24	C	Theft 2 (9A.56.040)	D
25	D	Theft 3 (9A.56.050)	E
26	B	Theft of Livestock 1 and 2 (9A.56.080 and	
27		9A.56.083)	C
28	C	Forgery (9A.60.020)	D
29	A	Robbery 1 (9A.56.200)	B+
30	B+	Robbery 2 (9A.56.210)	C+
31	B+	Extortion 1 (9A.56.120)	C+
32	C+	Extortion 2 (9A.56.130)	D+
33	C	Identity Theft 1 (9.35.020(2))	D
34	D	Identity Theft 2 (9.35.020(3))	E
35	D	Improperly Obtaining Financial	
36		Information (9.35.010)	E

1	B	Possession of a Stolen Vehicle	
2		(9A.56.068)	C
3	B	Possession of Stolen Property 1	
4		(9A.56.150)	C
5	C	Possession of Stolen Property 2	
6		(9A.56.160)	D
7	D	Possession of Stolen Property 3	
8		(9A.56.170)	E
9	B	Taking Motor Vehicle Without Permission	
10		1 (9A.56.070)	C
11	C	Taking Motor Vehicle Without Permission	
12		2 (9A.56.075)	D
13	B	Theft of a Motor Vehicle (9A.56.065)	C
14		<b>Motor Vehicle Related Crimes</b>	
15	E	Driving Without a License (46.20.005)	E
16	B+	Hit and Run - Death (46.52.020(4)(a))	C+
17	C	Hit and Run - Injury (46.52.020(4)(b))	D
18	D	Hit and Run-Attended (46.52.020(5))	E
19	E	Hit and Run-Unattended (46.52.010)	E
20	C	Vehicular Assault (46.61.522)	D
21	C	Attempting to Elude Pursuing Police	
22		Vehicle (46.61.024)	D
23	E	Reckless Driving (46.61.500)	E
24	D	Driving While Under the Influence	
25		(46.61.502 and 46.61.504)	E
26	B+	Felony Driving While Under the Influence	
27		(46.61.502(6))	B
28	B+	Felony Physical Control of a Vehicle	
29		While Under the Influence (46.61.504(6))	B
30		<b>Other</b>	
31	B	Animal Cruelty 1 (16.52.205)	C
32	B	Bomb Threat (9.61.160)	C
33	C	Escape 1 <sup>1</sup> (9A.76.110)	C
34	C	Escape 2 <sup>1</sup> (9A.76.120)	C
35	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc., Phone Calls	
2		(9.61.230)	E
3	A	Other Offense Equivalent to an Adult	
4		Class A Felony	B+
5	B	Other Offense Equivalent to an Adult	
6		Class B Felony	C
7	C	Other Offense Equivalent to an Adult	
8		Class C Felony	D
9	D	Other Offense Equivalent to an Adult	
10		Gross Misdemeanor	E
11	E	Other Offense Equivalent to an Adult	
12		Misdemeanor	E
13	V	Violation of Order of Restitution,	
14		Community Supervision, or Confinement	
15		(13.40.200) <sup>2</sup>	V

16 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
17 and the standard range is established as follows:

18 1st escape or attempted escape during 12-month period - 4 weeks  
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks  
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month  
23 period - 12 weeks confinement

24 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
25 it may impose a penalty of up to 30 days of confinement.

26 **JUVENILE SENTENCING STANDARDS**

27 This schedule must be used for juvenile offenders. The court may  
28 select sentencing option A, B, C, D, or RCW 13.40.167.

29	OPTION A		
30	JUVENILE OFFENDER SENTENCING GRID		
31	STANDARD RANGE		
32	A+	180 WEEKS TO AGE 21 YEARS	
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		A 103 WEEKS TO 129 WEEKS			
		15-36	52-65	80-100	103-129
		WEEKS	WEEKS	WEEKS	WEEKS
	A-	EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS			
Current Offense Category	B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
	B	LOCAL SANCTIONS (LS)	15-36 WEEKS		52-65 WEEKS
	C+	LS		15-36 WEEKS	
	C	LS			15-36 WEEKS
	D+	LS	Local Sanctions: 0 to 30 Days 0 to 12 Months Community Supervision 0 to 150 Hours Community Restitution		
	D	LS	\$0 to \$500 Fine		
	E	LS			
		0	1	2	3
					4 or more
PRIOR ADJUDICATIONS					

32 NOTE: References in the grid to days or weeks mean periods of  
33 confinement.

34 (1) The vertical axis of the grid is the current offense category.  
35 The current offense category is determined by the offense of  
36 adjudication.

37 (2) The horizontal axis of the grid is the number of prior  
38 adjudications included in the juvenile's criminal history. Each prior  
39 felony adjudication shall count as one point. Each prior violation,  
40 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
41 point. Fractional points shall be rounded down.



1 (3) The standard range disposition for each offense is determined  
2 by the intersection of the column defined by the prior adjudications  
3 and the row defined by the current offense category.

4 (4) RCW 13.40.180 applies if the offender is being sentenced for  
5 more than one offense.

6 (5) A current offense that is a violation is equivalent to an  
7 offense category of E. However, a disposition for a violation shall  
8 not include confinement.

9 OR

10 **OPTION B**

11 **SUSPENDED DISPOSITION ALTERNATIVE**

12 (1) If the offender is subject to a standard range disposition  
13 involving confinement by the department, the court may impose the  
14 standard range and suspend the disposition on condition that the  
15 offender comply with one or more local sanctions and any educational or  
16 treatment requirement. The treatment programs provided to the offender  
17 must be either research-based best practice programs as identified by  
18 the Washington state institute for public policy or the joint  
19 legislative audit and review committee, or for chemical dependency  
20 treatment programs or services, they must be evidence-based or  
21 research-based best practice programs. For the purposes of this  
22 subsection:

23 (a) "Evidence-based" means a program or practice that has had  
24 multiple site random controlled trials across heterogeneous populations  
25 demonstrating that the program or practice is effective for the  
26 population; and

27 (b) "Research-based" means a program or practice that has some  
28 research demonstrating effectiveness, but that does not yet meet the  
29 standard of evidence-based practices.

30 (2) If the offender fails to comply with the suspended disposition,  
31 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke  
32 the suspended disposition and order the disposition's execution.

33 (3) An offender is ineligible for the suspended disposition option  
34 under this section if the offender is:

35 (a) Adjudicated of an A+ offense;

36 (b) Fourteen years of age or older and is adjudicated of one or  
37 more of the following offenses:

1 (i) A class A offense, or an attempt, conspiracy, or solicitation  
2 to commit a class A offense;

3 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

4 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
5 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
6 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
7 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
8 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
9 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
10 witness (RCW 9A.72.110), violation of the uniform controlled substances  
11 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),  
12 when the offense includes infliction of bodily harm upon another or  
13 when during the commission or immediate withdrawal from the offense the  
14 respondent was armed with a deadly weapon;

15 (c) Ordered to serve a disposition for a firearm violation under  
16 RCW 13.40.193; or

17 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

18 OR

19 **OPTION C**

20 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

21 If the juvenile offender is subject to a standard range disposition  
22 of local sanctions or 15 to 36 weeks of confinement and has not  
23 committed an A- or B+ offense, other than a first-time B+ offense under  
24 chapter 9.41 RCW, the court may impose a disposition under RCW  
25 13.40.160(4) and 13.40.165.

26 OR

27 **OPTION D**

28 **MANIFEST INJUSTICE**

29 If the court determines that a disposition under option A, B, or C  
30 would effectuate a manifest injustice, the court shall impose a  
31 disposition outside the standard range under RCW 13.40.160(2).

32 **Sec. 2.** RCW 13.40.193 and 2003 c 53 s 100 are each amended to read  
33 as follows:

34 (1) If a respondent is found to have been in possession of a  
35 firearm in violation of RCW 9.41.040(2)(a)(iii), the court shall

1 (~~impose a minimum disposition of ten days of confinement. If the~~  
2 ~~offender's standard range of disposition for the offense as indicated~~  
3 ~~in RCW 13.40.0357 is more than thirty days of confinement, the court~~  
4 ~~shall~~)) commit the offender to the department for the standard range  
5 disposition, as indicated in RCW 13.40.0357 unless the respondent is  
6 eligible for and the court imposes a disposition under RCW 13.40.160(4)  
7 and 13.40.165. (~~The offender shall not be released until the offender~~  
8 ~~has served a minimum of ten days in confinement.~~))

9 (2) If the court finds that the respondent or an accomplice was  
10 armed with a firearm, the court shall determine the standard range  
11 disposition for the offense pursuant to RCW 13.40.160. If the offender  
12 or an accomplice was armed with a firearm when the offender committed  
13 any felony other than possession of a machine gun, possession of a  
14 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
15 possession of a firearm in the first and second degree, or use of a  
16 machine gun in a felony, the following periods of total confinement  
17 must be added to the sentence: For a class A felony, six months; for  
18 a class B felony, four months; and for a class C felony, two months.  
19 The additional time shall be imposed regardless of the offense's  
20 juvenile disposition offense category as designated in RCW 13.40.0357.

21 (3) When a disposition under this section would effectuate a  
22 manifest injustice, the court may impose another disposition. When a  
23 judge finds a manifest injustice and imposes a disposition of  
24 confinement exceeding thirty days, the court shall commit the juvenile  
25 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used  
26 to determine the range. When a judge finds a manifest injustice and  
27 imposes a disposition of confinement less than thirty days, the  
28 disposition shall be comprised of confinement or community supervision  
29 or both.

30 (4) Any term of confinement ordered pursuant to this section shall  
31 run consecutively to any term of confinement imposed in the same  
32 disposition for other offenses.

33 **Sec. 3.** RCW 13.40.160 and 2007 c 199 s 14 are each amended to read  
34 as follows:

35 (1) The standard range disposition for a juvenile adjudicated of an  
36 offense is determined according to RCW 13.40.0357.

1 (a) When the court sentences an offender to a local sanction as  
2 provided in RCW 13.40.0357 option A, the court shall impose a  
3 determinate disposition within the standard ranges, except as provided  
4 in subsection (2), (3), (4), (5), or (6) of this section. The  
5 disposition may be comprised of one or more local sanctions.

6 (b) When the court sentences an offender to a standard range as  
7 provided in RCW 13.40.0357 option A that includes a term of confinement  
8 exceeding thirty days, commitment shall be to the department for the  
9 standard range of confinement, except as provided in subsection (2),  
10 (3), (4), (5), or (6) of this section.

11 (2) If the court concludes, and enters reasons for its conclusion,  
12 that disposition within the standard range would effectuate a manifest  
13 injustice the court shall impose a disposition outside the standard  
14 range, as indicated in option D of RCW 13.40.0357. The court's finding  
15 of manifest injustice shall be supported by clear and convincing  
16 evidence.

17 A disposition outside the standard range shall be determinate and  
18 shall be comprised of confinement or community supervision, or a  
19 combination thereof. When a judge finds a manifest injustice and  
20 imposes a sentence of confinement exceeding thirty days, the court  
21 shall sentence the juvenile to a maximum term, and the provisions of  
22 RCW 13.40.030(2) shall be used to determine the range. A disposition  
23 outside the standard range is appealable under RCW 13.40.230 by the  
24 state or the respondent. A disposition within the standard range is  
25 not appealable under RCW 13.40.230.

26 (3) When a juvenile offender is found to have committed a sex  
27 offense, other than a sex offense that is also a serious violent  
28 offense as defined by RCW 9.94A.030, and has no history of a prior sex  
29 offense, the court, on its own motion or the motion of the state or the  
30 respondent, may order an examination to determine whether the  
31 respondent is amenable to treatment.

32 The report of the examination shall include at a minimum the  
33 following: The respondent's version of the facts and the official  
34 version of the facts, the respondent's offense history, an assessment  
35 of problems in addition to alleged deviant behaviors, the respondent's  
36 social, educational, and employment situation, and other evaluation  
37 measures used. The report shall set forth the sources of the  
38 evaluator's information.

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

5 (a)(i) Frequency and type of contact between the offender and  
6 therapist;

7 (ii) Specific issues to be addressed in the treatment and  
8 description of planned treatment modalities;

9 (iii) Monitoring plans, including any requirements regarding living  
10 conditions, lifestyle requirements, and monitoring by family members,  
11 legal guardians, or others;

12 (iv) Anticipated length of treatment; and

13 (v) Recommended crime-related prohibitions.

14 The court on its own motion may order, or on a motion by the state  
15 shall order, a second examination regarding the offender's amenability  
16 to treatment. The evaluator shall be selected by the party making the  
17 motion. The defendant shall pay the cost of any second examination  
18 ordered unless the court finds the defendant to be indigent in which  
19 case the state shall pay the cost.

20 After receipt of reports of the examination, the court shall then  
21 consider whether the offender and the community will benefit from use  
22 of this special sex offender disposition alternative and consider the  
23 victim's opinion whether the offender should receive a treatment  
24 disposition under this section. If the court determines that this  
25 special sex offender disposition alternative is appropriate, then the  
26 court shall impose a determinate disposition within the standard range  
27 for the offense, or if the court concludes, and enters reasons for its  
28 conclusions, that such disposition would cause a manifest injustice,  
29 the court shall impose a disposition under option D, and the court may  
30 suspend the execution of the disposition and place the offender on  
31 community supervision for at least two years. As a condition of the  
32 suspended disposition, the court may impose the conditions of community  
33 supervision and other conditions, including up to thirty days of  
34 confinement and requirements that the offender do any one or more of  
35 the following:

36 (b)(i) Devote time to a specific education, employment, or  
37 occupation;

1 (ii) Undergo available outpatient sex offender treatment for up to  
2 two years, or inpatient sex offender treatment not to exceed the  
3 standard range of confinement for that offense. A community mental  
4 health center may not be used for such treatment unless it has an  
5 appropriate program designed for sex offender treatment. The  
6 respondent shall not change sex offender treatment providers or  
7 treatment conditions without first notifying the prosecutor, the  
8 probation counselor, and the court, and shall not change providers  
9 without court approval after a hearing if the prosecutor or probation  
10 counselor object to the change;

11 (iii) Remain within prescribed geographical boundaries and notify  
12 the court or the probation counselor prior to any change in the  
13 offender's address, educational program, or employment;

14 (iv) Report to the prosecutor and the probation counselor prior to  
15 any change in a sex offender treatment provider. This change shall  
16 have prior approval by the court;

17 (v) Report as directed to the court and a probation counselor;

18 (vi) Pay all court-ordered legal financial obligations, perform  
19 community restitution, or any combination thereof;

20 (vii) Make restitution to the victim for the cost of any counseling  
21 reasonably related to the offense;

22 (viii) Comply with the conditions of any court-ordered probation  
23 bond; or

24 (ix) The court shall order that the offender shall not attend the  
25 public or approved private elementary, middle, or high school attended  
26 by the victim or the victim's siblings. The parents or legal guardians  
27 of the offender are responsible for transportation or other costs  
28 associated with the offender's change of school that would otherwise be  
29 paid by the school district. The court shall send notice of the  
30 disposition and restriction on attending the same school as the victim  
31 or victim's siblings to the public or approved private school the  
32 juvenile will attend, if known, or if unknown, to the approved private  
33 schools and the public school district board of directors of the  
34 district in which the juvenile resides or intends to reside. This  
35 notice must be sent at the earliest possible date but not later than  
36 ten calendar days after entry of the disposition.

37 The sex offender treatment provider shall submit quarterly reports  
38 on the respondent's progress in treatment to the court and the parties.

1 The reports shall reference the treatment plan and include at a minimum  
2 the following: Dates of attendance, respondent's compliance with  
3 requirements, treatment activities, the respondent's relative progress  
4 in treatment, and any other material specified by the court at the time  
5 of the disposition.

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

8 Except as provided in this subsection (3), after July 1, 1991,  
9 examinations and treatment ordered pursuant to this subsection shall  
10 only be conducted by certified sex offender treatment providers or  
11 certified affiliate sex offender treatment providers under chapter  
12 18.155 RCW. A sex offender therapist who examines or treats a juvenile  
13 sex offender pursuant to this subsection does not have to be certified  
14 by the department of health pursuant to chapter 18.155 RCW if the court  
15 finds that: (A) The offender has already moved to another state or  
16 plans to move to another state for reasons other than circumventing the  
17 certification requirements; (B) no certified sex offender treatment  
18 providers or certified affiliate sex offender treatment providers are  
19 available for treatment within a reasonable geographical distance of  
20 the offender's home; and (C) the evaluation and treatment plan comply  
21 with this subsection (3) and the rules adopted by the department of  
22 health.

23 If the offender violates any condition of the disposition or the  
24 court finds that the respondent is failing to make satisfactory  
25 progress in treatment, the court may revoke the suspension and order  
26 execution of the disposition or the court may impose a penalty of up to  
27 thirty days' confinement for violating conditions of the disposition.  
28 The court may order both execution of the disposition and up to thirty  
29 days' confinement for the violation of the conditions of the  
30 disposition. The court shall give credit for any confinement time  
31 previously served if that confinement was for the offense for which the  
32 suspension is being revoked.

33 For purposes of this section, "victim" means any person who has  
34 sustained emotional, psychological, physical, or financial injury to  
35 person or property as a direct result of the crime charged. "Victim"  
36 may also include a known parent or guardian of a victim who is a minor  
37 child unless the parent or guardian is the perpetrator of the offense.

1 A disposition entered under this subsection (3) is not appealable  
2 under RCW 13.40.230.

3 (4) If the juvenile offender is subject to a standard range  
4 disposition of local sanctions or 15 to 36 weeks of confinement and has  
5 not committed an A- or B+ offense, other than a first-time B+ offense  
6 under chapter 9.41 RCW, the court may impose the disposition  
7 alternative under RCW 13.40.165.

8 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
9 confinement, the court may impose the disposition alternative under RCW  
10 13.40.167.

11 (6) When the offender is subject to a standard range commitment of  
12 15 to 36 weeks and is ineligible for a suspended disposition  
13 alternative, a manifest injustice disposition below the standard range,  
14 special sex offender disposition alternative, chemical dependency  
15 disposition alternative, or mental health disposition alternative, the  
16 court in a county with a pilot program under RCW 13.40.169 may impose  
17 the disposition alternative under RCW 13.40.169.

18 (7) RCW 13.40.193 shall govern the disposition of any juvenile  
19 adjudicated of possessing a firearm in violation of RCW  
20 9.41.040(2)(a)(iii) or any crime in which a special finding is entered  
21 that the juvenile was armed with a firearm.

22 (8) RCW 13.40.308 shall govern the disposition of any juvenile  
23 adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065,  
24 possession of a stolen motor vehicle as defined under RCW 9A.56.068,  
25 taking a motor vehicle without permission in the first degree under RCW  
26 9A.56.070, and taking a motor vehicle without permission in the second  
27 degree under RCW 9A.56.075.

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

32 (10) Except as provided under subsection (3), (4), (5), or (6) of  
33 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the  
34 court shall not suspend or defer the imposition or the execution of the  
35 disposition.

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



1           **Sec. 4.** RCW 13.40.165 and 2004 c 120 s 5 are each amended to read  
2 as follows:

3           (1) The purpose of this disposition alternative is to ensure that  
4 successful treatment options to reduce recidivism are available to  
5 eligible youth, pursuant to RCW 70.96A.520. The court must consider  
6 eligibility for the chemical dependency disposition alternative when a  
7 juvenile offender is subject to a standard range disposition of local  
8 sanctions or 15 to 36 weeks of confinement and has not committed an A-  
9 or B+ offense, other than a first time B+ offense under chapter 69.50  
10 RCW or a first time B+ offense under chapter 9.41 RCW. The court, on  
11 its own motion or the motion of the state or the respondent if the  
12 evidence shows that the offender may be chemically dependent or  
13 substance abusing, may order an examination by a chemical dependency  
14 counselor from a chemical dependency treatment facility approved under  
15 chapter 70.96A RCW to determine if the youth is chemically dependent or  
16 substance abusing. The offender shall pay the cost of any examination  
17 ordered under this subsection unless the court finds that the offender  
18 is indigent and no third party insurance coverage is available, in  
19 which case the state shall pay the cost.

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

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

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

37           (4) The court on its own motion may order, or on a motion by the  
38 state or the respondent shall order, a second examination. The

1 evaluator shall be selected by the party making the motion. The  
2 requesting party shall pay the cost of any examination ordered under  
3 this subsection unless the requesting party is the offender and the  
4 court finds that the offender is indigent and no third party insurance  
5 coverage is available, in which case the state shall pay the cost.

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

11 (b) If the court determines that this chemical dependency  
12 disposition alternative is appropriate, then the court shall impose the  
13 standard range for the offense, or if the court concludes, and enters  
14 reasons for its conclusion, that such disposition would effectuate a  
15 manifest injustice, the court shall impose a disposition above the  
16 standard range as indicated in option D of RCW 13.40.0357 if the  
17 disposition is an increase from the standard range and the confinement  
18 of the offender does not exceed a maximum of fifty-two weeks, suspend  
19 execution of the disposition, and place the offender on community  
20 supervision for up to one year. As a condition of the suspended  
21 disposition, the court shall require the offender to undergo available  
22 outpatient drug/alcohol treatment and/or inpatient drug/alcohol  
23 treatment. For purposes of this section, inpatient treatment may not  
24 exceed ninety days. As a condition of the suspended disposition, the  
25 court may impose conditions of community supervision and other  
26 sanctions, including up to thirty days of confinement, one hundred  
27 fifty hours of community restitution, and payment of legal financial  
28 obligations and restitution.

29 (6) The drug/alcohol treatment provider shall submit monthly  
30 reports on the respondent's progress in treatment to the court and the  
31 parties. The reports shall reference the treatment plan and include at  
32 a minimum the following: Dates of attendance, respondent's compliance  
33 with requirements, treatment activities, the respondent's relative  
34 progress in treatment, and any other material specified by the court at  
35 the time of the disposition.

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

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

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

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

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

21        (10) A disposition under this section is not appealable under RCW  
22 13.40.230.

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