

SUBSTITUTE HOUSE BILL 1096

State of Washington 63rd Legislature 2013 Regular Session

By House Judiciary (originally sponsored by Representatives Hurst, Hope, Takko, Hayes, Klippert, Dahlquist, Holy, Sullivan, Haigh, Blake, and Parker)

READ FIRST TIME 02/18/13.

1 AN ACT Relating to juvenile firearms and weapons crimes; amending
2 RCW 13.40.0357, 13.40.127, 13.40.193, and 13.40.160; adding a new
3 section to chapter 13.40 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 13.40.0357 and 2012 c 177 s 4 are each amended to read
6 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+
B	Arson 2 (9A.48.030)	C

1	C	Reckless Burning 1 (9A.48.040)	D
2	D	Reckless Burning 2 (9A.48.050)	E
3	B	Malicious Mischief 1 (9A.48.070)	C
4	C	Malicious Mischief 2 (9A.48.080)	D
5	D	Malicious Mischief 3 (9A.48.090)	E
6			
7	E	Tampering with Fire Alarm Apparatus	
8		(9.40.100)	E
9	E	Tampering with Fire Alarm Apparatus with	
10		Intent to Commit Arson (9.40.105)	E
11	A	Possession of Incendiary Device (9.40.120)	B+
12		Assault and Other Crimes Involving	
13		Physical Harm	
14	A	Assault 1 (9A.36.011)	B+
15	B+	Assault 2 (9A.36.021)	C+
16	C+	Assault 3 (9A.36.031)	D+
17	D+	Assault 4 (9A.36.041)	E
18	B+	Drive-By Shooting (9A.36.045)	C+
19	D+	Reckless Endangerment (9A.36.050)	E
20	C+	Promoting Suicide Attempt (9A.36.060)	D+
21	D+	Coercion (9A.36.070)	E
22	C+	Custodial Assault (9A.36.100)	D+
23		Burglary and Trespass	
24	B+	Burglary 1 (9A.52.020)	C+
25	B	Residential Burglary (9A.52.025)	C
26	B	Burglary 2 (9A.52.030)	C
27	D	Burglary Tools (Possession of) (9A.52.060)	E
28	D	Criminal Trespass 1 (9A.52.070)	E
29	E	Criminal Trespass 2 (9A.52.080)	E
30	C	Mineral Trespass (78.44.330)	C
31	C	Vehicle Prowling 1 (9A.52.095)	D
32	D	Vehicle Prowling 2 (9A.52.100)	E
33		Drugs	
34	E	Possession/Consumption of Alcohol	
35		(66.44.270)	E

1	C	Illegally Obtaining Legend Drug	
2		(69.41.020)	D
3	C+	Sale, Delivery, Possession of Legend Drug	
4		with Intent to Sell (69.41.030(2)(a))	D+
5	E	Possession of Legend Drug	
6		(69.41.030(2)(b))	E
7	B+	Violation of Uniform Controlled Substances	
8		Act - Narcotic, Methamphetamine, or	
9		Flunitrazepam Sale (69.50.401(2) (a) or	
10		(b))	B+
11	C	Violation of Uniform Controlled Substances	
12		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
13	E	Possession of Marihuana <40 grams	
14		(69.50.4014)	E
15	C	Fraudulently Obtaining Controlled	
16		Substance (69.50.403)	C
17	C+	Sale of Controlled Substance for Profit	
18		(69.50.410)	C+
19	E	Unlawful Inhalation (9.47A.020)	E
20	B	Violation of Uniform Controlled Substances	
21		Act - Narcotic, Methamphetamine, or	
22		Flunitrazepam Counterfeit Substances	
23		(69.50.4011(2) (a) or (b))	B
24	C	Violation of Uniform Controlled Substances	
25		Act - Nonnarcotic Counterfeit Substances	
26		(69.50.4011(2) (c), (d), or (e))	C
27	C	Violation of Uniform Controlled Substances	
28		Act - Possession of a Controlled Substance	
29		(69.50.4013)	C
30	C	Violation of Uniform Controlled Substances	
31		Act - Possession of a Controlled Substance	
32		(69.50.4012)	C
33		Firearms and Weapons	
34	<u>A-</u>	<u>Unlawful Possession of a Firearm 1</u>	
35		<u>(9.41.040(1))</u>	<u>B+</u>
36	<u>B+</u>	<u>Unlawful Possession of a Firearm 2</u>	
37		<u>(9.41.040(2)(a)(i), (ii), or (iv))</u>	<u>C+</u>

1	B+	<u>Unlawful Possession of a Firearm 2</u>	
2		<u>(9.41.040(2)(a)(iii)) Second or subsequent</u>	
3		<u>offense</u>	C+
4	B	Theft of Firearm (9A.56.300)	C
5	B	Possession of Stolen Firearm (9A.56.310)	C
6	E	Carrying Loaded Pistol Without Permit	
7		(9.41.050)	E
8	C	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		Homicide	
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+	Vehicular Homicide (46.61.520)	C+
20		Kidnapping	
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		Obstructing Governmental Operation	
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		Public Disturbance	
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		Sex Crimes	
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.44.132)	D
22		Theft, Robbery, Extortion, and Forgery	
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 Information	
36		(9.35.010)	E
37	B	Possession of a Stolen Vehicle (9A.56.068)	C

1	B	Possession of Stolen Property 1	
2		(9A.56.150)	C
3	C	Possession of Stolen Property 2	
4		(9A.56.160)	D
5	D	Possession of Stolen Property 3	
6		(9A.56.170)	E
7	B	Taking Motor Vehicle Without Permission	
8		1 (9A.56.070)	C
9	C	Taking Motor Vehicle Without Permission	
10		2 (9A.56.075)	D
11	B	Theft of a Motor Vehicle (9A.56.065)	C
12		Motor Vehicle Related Crimes	
13	E	Driving Without a License (46.20.005)	E
14	B+	Hit and Run - Death (46.52.020(4)(a))	C+
15	C	Hit and Run - Injury (46.52.020(4)(b))	D
16	D	Hit and Run-Attended (46.52.020(5))	E
17	E	Hit and Run-Unattended (46.52.010)	E
18	C	Vehicular Assault (46.61.522)	D
19	C	Attempting to Elude Pursuing Police	
20		Vehicle (46.61.024)	D
21	E	Reckless Driving (46.61.500)	E
22	D	Driving While Under the Influence	
23		(46.61.502 and 46.61.504)	E
24	B+	Felony Driving While Under the Influence	
25		(46.61.502(6))	B
26	B+	Felony Physical Control of a Vehicle While	
27		Under the Influence (46.61.504(6))	B
28		Other	
29	B	Animal Cruelty 1 (16.52.205)	C
30	B	Bomb Threat (9.61.160)	C
31	C	Escape 1 ¹ (9A.76.110)	C
32	C	Escape 2 ¹ (9A.76.120)	C
33	D	Escape 3 (9A.76.130)	E
34	E	Obscene, Harassing, Etc., Phone Calls	
35		(9.61.230)	E

1	A	Other Offense Equivalent to an Adult Class	
2		A Felony	B+
3	B	Other Offense Equivalent to an Adult Class	
4		B Felony	C
5	C	Other Offense Equivalent to an Adult Class	
6		C Felony	D
7	D	Other Offense Equivalent to an Adult Gross	
8		Misdemeanor	E
9	E	Other Offense Equivalent to an Adult	
10		Misdemeanor	E
11	V	Violation of Order of Restitution,	
12		Community Supervision, or Confinement	
13		(13.40.200) ²	V

14 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
15 and the standard range is established as follows:

16 1st escape or attempted escape during 12-month period - 4 weeks
17 confinement

18 2nd escape or attempted escape during 12-month period - 8 weeks
19 confinement

20 3rd and subsequent escape or attempted escape during 12-month
21 period - 12 weeks confinement

22 ²If the court finds that a respondent has violated terms of an order,
23 it may impose a penalty of up to 30 days of confinement.

24 **JUVENILE SENTENCING STANDARDS**

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

27 **OPTION A**
28 **JUVENILE OFFENDER SENTENCING GRID**
29 **STANDARD RANGE**

30	A+	180 weeks to age 21 for all category A+ offenses
31	A	103-129 weeks for all category A offenses

1	A-	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
2		Except 30-40 weeks					
3		for 15 to 17 year olds					
4	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
5	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
6	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
7		C	LS	LS	LS	LS	15-36 weeks
8		D+	LS	LS	LS	LS	LS
9		D	LS	LS	LS	LS	LS
10		E	LS	LS	LS	LS	LS
11							
12	PRIOR		0	1	2	3	4 or more
13	ADJUDICATIONS						

14 NOTE: References in the grid to days or weeks mean periods of
15 confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

16 (1) The vertical axis of the grid is the current offense category.
17 The current offense category is determined by the offense of
18 adjudication.

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

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

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

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

32 **OR**
33 **OPTION B**
34 **SUSPENDED DISPOSITION ALTERNATIVE**

1 (1) If the offender is subject to a standard range disposition
2 involving confinement by the department, the court may impose the
3 standard range and suspend the disposition on condition that the
4 offender comply with one or more local sanctions and any educational or
5 treatment requirement. The treatment programs provided to the offender
6 must be either research-based best practice programs as identified by
7 the Washington state institute for public policy or the joint
8 legislative audit and review committee, or for chemical dependency
9 treatment programs or services, they must be evidence-based or
10 research-based best practice programs. For the purposes of this
11 subsection:

12 (a) "Evidence-based" means a program or practice that has had
13 multiple site random controlled trials across heterogeneous populations
14 demonstrating that the program or practice is effective for the
15 population; and

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

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

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

24 (a) Adjudicated of an A+ offense;

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

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

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

30 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
31 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW
32 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential
33 burglary (RCW 9A.52.025), burglary in the second degree (RCW
34 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW
35 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a
36 witness (RCW 9A.72.110), violation of the uniform controlled substances
37 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),

1 when the offense includes infliction of bodily harm upon another or
2 when during the commission or immediate withdrawal from the offense the
3 respondent was armed with a deadly weapon;

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

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

7 **OR**

8 **OPTION C**

9 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

10 If the juvenile offender is subject to a standard range disposition
11 of local sanctions or 15 to 36 weeks of confinement and has not
12 committed an A- or B+ offense, the court may impose a disposition under
13 RCW 13.40.160(4) and 13.40.165.

14 **OR**

15 **OPTION D**

16 **MANIFEST INJUSTICE**

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

20 **OR**

21 **OPTION E**

22 **FIREARM DISPOSITION ALTERNATIVE**

23 (1) If an offender has been adjudicated of unlawful possession of
24 a firearm in the second degree under RCW 9.41.040(2)(a)(iii), theft of
25 a firearm, or possession of a stolen firearm, and the court determines
26 that the juvenile may benefit from an intensive intervention aimed at
27 reducing aggressive or violent behavior, the court may impose the
28 following disposition alternative:

29 (a) If the offender has no prior adjudication for unlawful
30 possession of a firearm, theft of a firearm, or possession of a stolen
31 firearm, and is subject to a standard range disposition of local
32 sanctions, the court may impose the disposition required under RCW
33 13.40.193(1) and suspend the disposition on condition that the offender
34 participate in an intensive intervention that utilizes evidence-based

1 practices that have been proven effective for reducing aggressive or
2 violent behavior. The court must also impose a minimum of six months
3 of community supervision.

4 (b) If the offender is subject to a standard range disposition of
5 a commitment to the juvenile rehabilitation administration, and has no
6 more than one prior adjudication for unlawful possession of a firearm,
7 theft of a firearm, or possession of a stolen firearm, the court may
8 impose the standard range and suspend the disposition on condition that
9 the offender comply with one or more local sanctions. As a condition
10 of suspension, the court must require the offender to participate in an
11 intensive intervention that utilizes evidence-based practices that have
12 been proven effective for reducing aggressive or violent behavior.

13 (2) An offender is ineligible for the firearm disposition
14 alternative if the offender has previously been adjudicated of a
15 violent offense.

16 (3) If the court finds that interventions using evidence-based
17 practices, as required in subsection (1) of this section, are not
18 available in the county in which the juvenile resides, the court may
19 permit an intensive intervention that utilizes a research-based or
20 promising practice that has been proven effective for reducing
21 aggressive behavior and violence.

22 (4) If the offender fails to comply with the conditions of the
23 suspended disposition, the court must revoke the suspended disposition
24 and order the execution of the disposition.

25 NEW SECTION. Sec. 2. A new section is added to chapter 13.40 RCW
26 to read as follows:

27 (1) The administrative office of the courts shall collect and
28 analyze data regarding evidence and research-based interventions
29 provided to juvenile offenders who have been found to have committed
30 the offenses of unlawful possession of a firearm in the second degree
31 under RCW 9.41.040(2)(a)(iii), theft of a firearm, or possession of a
32 stolen firearm. The collection and analysis of data should include the
33 following:

34 (a) The number of juvenile offenders provided intervention
35 services;

36 (b) Where applicable, the number of successful and unsuccessful

1 completions of evidence or research-based interventions provided to the
2 juvenile offenders; and

3 (c) Any subsequent criminal offenses committed by the offender as
4 a juvenile or an adult.

5 (2) The Washington state institute for public policy shall study
6 the data provided by the administrative office of the courts pursuant
7 to subsection (1) of this section and report to the appropriate
8 committees of the legislature regarding the recidivism outcomes for
9 offenders found to have committed the offenses described in subsection
10 (1) of this section, as well as a cost-benefit analysis of the
11 individual evidence and research-based interventions provided to the
12 offenders.

13 (3) A preliminary report shall be completed by December 1, 2014.
14 A final report shall be completed by December 1, 2016.

15 **Sec. 3.** RCW 13.40.127 and 2012 c 177 s 1 are each amended to read
16 as follows:

17 (1) A juvenile is eligible for deferred disposition unless he or
18 she:

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

20 (b) Is charged with unlawful possession of a firearm in the second
21 degree other than under RCW 9.41.040(2)(a)(iii), theft of a firearm, or
22 possession of a stolen firearm;

23 (c) Has a criminal history which includes any felony;

24 ~~((e))~~ (d) Has a prior deferred disposition or deferred
25 adjudication; or

26 ~~((d))~~ (e) Has two or more adjudications.

27 (2) The juvenile court may, upon motion at least fourteen days
28 before commencement of trial and, after consulting the juvenile's
29 custodial parent or parents or guardian and with the consent of the
30 juvenile, continue the case for disposition for a period not to exceed
31 one year from the date the juvenile is found guilty. The court shall
32 consider whether the offender and the community will benefit from a
33 deferred disposition before deferring the disposition. The court may
34 waive the fourteen-day period anytime before the commencement of trial
35 for good cause.

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

1 (a) Stipulate to the admissibility of the facts contained in the
2 written police report;

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

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

8 (d) Acknowledge the direct consequences of being found guilty and
9 the direct consequences that will happen if an order of disposition is
10 entered.

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

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

16 (5) Any juvenile granted a deferral of disposition under this
17 section shall be placed under community supervision. The court may
18 impose any conditions of supervision that it deems appropriate
19 including posting a probation bond. Payment of restitution under RCW
20 13.40.190 shall be a condition of community supervision under this
21 section.

22 The court may require a juvenile offender convicted of animal
23 cruelty in the first degree to submit to a mental health evaluation to
24 determine if the offender would benefit from treatment and such
25 intervention would promote the safety of the community. After
26 consideration of the results of the evaluation, as a condition of
27 community supervision, the court may order the offender to attend
28 treatment to address issues pertinent to the offense.

29 (6) A parent who signed for a probation bond has the right to
30 notify the counselor if the juvenile fails to comply with the bond or
31 conditions of supervision. The counselor shall notify the court and
32 surety of any failure to comply. A surety shall notify the court of
33 the juvenile's failure to comply with the probation bond. The state
34 shall bear the burden to prove, by a preponderance of the evidence,
35 that the juvenile has failed to comply with the terms of community
36 supervision.

37 (7)(a) Anytime prior to the conclusion of the period of
38 supervision, the prosecutor or the juvenile's juvenile court community

1 supervision counselor may file a motion with the court requesting the
2 court revoke the deferred disposition based on the juvenile's lack of
3 compliance or treat the juvenile's lack of compliance as a violation
4 pursuant to RCW 13.40.200.

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

7 (i) Revoke the deferred disposition and enter an order of
8 disposition; or

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

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

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

16 (i) The deferred disposition has not been previously revoked;

17 (ii) The juvenile has completed the terms of supervision;

18 (iii) There are no pending motions concerning lack of compliance
19 pursuant to subsection (7) of this section; and

20 (iv) The juvenile has either paid the full amount of restitution,
21 or, made a good faith effort to pay the full amount of restitution
22 during the period of supervision.

23 (b) If the court finds the juvenile is entitled to dismissal of the
24 deferred disposition pursuant to (a) of this subsection, the juvenile's
25 conviction shall be vacated and the court shall dismiss the case with
26 prejudice, except that a conviction under RCW 16.52.205 shall not be
27 vacated. Whenever a case is dismissed with restitution still owing,
28 the court shall enter a restitution order pursuant to RCW 13.40.190 for
29 any unpaid restitution. Jurisdiction to enforce payment and modify
30 terms of the restitution order shall be the same as those set forth in
31 RCW 13.40.190.

32 (c) If the court finds the juvenile is not entitled to dismissal of
33 the deferred disposition pursuant to (a) of this subsection, the court
34 shall revoke the deferred disposition and enter an order of
35 disposition. A deferred disposition shall remain a conviction unless
36 the case is dismissed and the conviction is vacated pursuant to (b) of
37 this subsection or sealed pursuant to RCW 13.50.050.

1 (10)(a)(i) Any time the court vacates a conviction pursuant to
2 subsection (9) of this section, if the juvenile is eighteen years of
3 age or older and the full amount of restitution ordered has been paid,
4 the court shall enter a written order sealing the case.

5 (ii) Any time the court vacates a conviction pursuant to subsection
6 (9) of this section, if the juvenile is not eighteen years of age or
7 older and full restitution ordered has been paid, the court shall
8 schedule an administrative sealing hearing to take place no later than
9 thirty days after the respondent's eighteenth birthday, at which time
10 the court shall enter a written order sealing the case. The
11 respondent's presence at the administrative sealing hearing is not
12 required.

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

15 (b) Nothing in this subsection shall preclude a juvenile from
16 petitioning the court to have the records of his or her deferred
17 dispositions sealed under RCW 13.50.050 (11) and (12).

18 (c) Records sealed under this provision shall have the same legal
19 status as records sealed under RCW 13.50.050.

20 **Sec. 4.** RCW 13.40.193 and 2003 c 53 s 100 are each amended to read
21 as follows:

22 (1) If a respondent is found to have been in possession of a
23 firearm in violation of RCW 9.41.040(~~((2)(a)(iii), the court shall~~
24 ~~impose a minimum disposition of ten days of confinement. If)), and the~~
25 offender's standard range of disposition for the offense as indicated
26 in RCW 13.40.0357 is more than thirty days of confinement, the court
27 shall commit the offender to the department for the standard range
28 disposition. (~~The offender shall not be released until the offender~~
29 ~~has served a minimum of ten days in confinement.)) However, if a
30 respondent is found to have been in possession of a firearm in
31 violation of RCW 9.41.040(2)(a)(iii) and the offender's standard range
32 of disposition for the offense as indicated in RCW 13.40.0357 is local
33 sanctions, the court shall impose a minimum disposition of ten days of
34 confinement. If the offender is eligible, the court may impose a
35 firearm disposition alternative under RCW 13.40.0357.~~

36 (2) If the court finds that the respondent or an accomplice was
37 armed with a firearm, the court shall determine the standard range

1 disposition for the offense pursuant to RCW 13.40.160. If the offender
2 or an accomplice was armed with a firearm when the offender committed
3 any felony other than possession of a machine gun, possession of a
4 stolen firearm, drive-by shooting, theft of a firearm, unlawful
5 possession of a firearm in the first and second degree, or use of a
6 machine gun in a felony, the following periods of total confinement
7 must be added to the sentence: For a class A felony, six months; for
8 a class B felony, four months; and for a class C felony, two months.
9 The additional time shall be imposed regardless of the offense's
10 juvenile disposition offense category as designated in RCW 13.40.0357.

11 (3) ~~((When))~~ If a respondent with no prior criminal history and no
12 prior deferred disposition or deferred adjudication is before the court
13 for a first offense of unlawful possession of a firearm in violation of
14 RCW 9.41.040(2)(a)(iii) and the court finds that a disposition under
15 this section would effectuate a manifest injustice, the court may
16 impose another disposition. ((When a judge finds a manifest injustice
17 and imposes a disposition of confinement exceeding thirty days, the
18 court shall commit the juvenile to a maximum term, and the provisions
19 of RCW 13.40.030(2) shall be used to determine the range. When a judge
20 finds a manifest injustice and imposes a disposition of confinement
21 less than thirty days, the disposition shall be comprised of
22 confinement or community supervision or both.))

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

26 (5)(a) If a respondent is given a firearm disposition alternative
27 under RCW 13.40.0357 and it is the respondent's first adjudication for
28 unlawful possession of a firearm, theft of a firearm, or possession of
29 a stolen firearm, at the conclusion of the period of supervision the
30 court shall dismiss the offense if the court finds:

31 (i) The respondent has completed the terms of the supervision; and

32 (ii) There are no pending motions concerning lack of compliance.

33 (b) If the court finds the respondent is entitled to dismissal of
34 the offense pursuant to (a) of this subsection, the respondent's
35 conviction shall be vacated and the court shall dismiss the case with
36 prejudice.

37 (c)(i) Any time the court vacates a conviction pursuant to (b) of
38 this subsection, if the respondent is eighteen years of age or older,

1 the court shall enter a written order sealing the case. If the
2 respondent is not eighteen years of age or older, the court shall
3 schedule an administrative sealing hearing to take place no later than
4 thirty days after the respondent's eighteenth birthday, at which time
5 the court shall enter a written order sealing the case. The
6 respondent's presence at the administrative sealing is not required.

7 (ii) Records sealed under this subsection (5)(c) shall have the
8 same legal status as records sealed under RCW 13.50.050.

10 **Sec. 5.** RCW 13.40.160 and 2011 c 338 s 2 are each amended to read
11 as follows:

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

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

19 (b) When the court sentences an offender to a standard range as
20 provided in RCW 13.40.0357 option A that includes a term of confinement
21 exceeding thirty days, commitment shall be to the department for the
22 standard range of confinement, except as provided in subsection (2),
23 (3), (4), (5), or (6) of this section.

24 (2) If the court concludes, and enters reasons for its conclusion,
25 that disposition within the standard range would effectuate a manifest
26 injustice the court shall impose a disposition outside the standard
27 range, as indicated in option D of RCW 13.40.0357. The court's finding
28 of manifest injustice shall be supported by clear and convincing
29 evidence.

30 A disposition outside the standard range shall be determinate and
31 shall be comprised of confinement or community supervision, or a
32 combination thereof. When a judge finds a manifest injustice and
33 imposes a sentence of confinement exceeding thirty days, the court
34 shall sentence the juvenile to a maximum term, and the provisions of
35 RCW 13.40.030(2) shall be used to determine the range. A disposition
36 outside the standard range is appealable under RCW 13.40.230 by the

1 state or the respondent. A disposition within the standard range is
2 not appealable under RCW 13.40.230.

3 (3) If a juvenile offender is found to have committed a sex
4 offense, other than a sex offense that is also a serious violent
5 offense as defined by RCW 9.94A.030, and has no history of a prior sex
6 offense, the court may impose the special sex offender disposition
7 alternative under RCW 13.40.162.

8 (4) If the juvenile offender is subject to a standard range
9 disposition of local sanctions or 15 to 36 weeks of confinement and has
10 not committed an A- or B+ offense, the court may impose the disposition
11 alternative under RCW 13.40.165.

12 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of
13 confinement, the court may impose the disposition alternative under RCW
14 13.40.167.

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

22 (7) RCW 13.40.193 shall govern the disposition of any juvenile
23 adjudicated of possessing a firearm in violation of RCW
24 9.41.040(~~((2)(a)(iii))~~) or any crime in which a special finding is
25 entered that the juvenile was armed with a firearm.

26 (8) RCW 13.40.308 shall govern the disposition of any juvenile
27 adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065,
28 possession of a stolen motor vehicle as defined under RCW 9A.56.068,
29 taking a motor vehicle without permission in the first degree under RCW
30 9A.56.070, and taking a motor vehicle without permission in the second
31 degree under RCW 9A.56.075.

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

36 (10) Except as provided under subsection (3), (4), (5), or (6) of
37 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the

1 court shall not suspend or defer the imposition or the execution of the
2 disposition.

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

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