
SUBSTITUTE HOUSE BILL 1255

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Padden, Appelwick, Ballasiotes, Carrell, Campbell, Ebersole, Cooke, Honeyford, Thompson, Elliot, Johnson, Goldsmith, Clements, Hickel, Dyer, Robertson, Mitchell, Schoesler, Wolfe, Benton, Romero, Cody, Sheahan, Ogden, Scott, Sherstad, Regala, Costa, Patterson, Kessler, Casada, Basich and Conway)

Read first time 03/01/95.

1 AN ACT Relating to juveniles; amending RCW 13.04.030, 13.40.025,
2 13.40.027, 13.40.030, 13.40.0357, 13.40.040, 13.40.050, 13.40.060,
3 13.40.125, 13.40.130, 13.40.150, 13.40.160, 13.40.185, 13.40.200,
4 13.40.210, 13.40.320, 28A.225.020, 28A.225.030, 28A.225.150,
5 70.96A.095, 70.96A.140, 71.34.030, 71.34.050, 71.34.070, 71.34.130, and
6 9A.04.050; reenacting and amending RCW 13.40.020; adding new sections
7 to chapter 13.40 RCW; adding a new section to chapter 28A.225 RCW;
8 adding a new section to chapter 70.96A RCW; adding a new section to
9 chapter 71.34 RCW; creating a new section; and prescribing penalties.

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

11 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
12 establish and assure a body of law that will assist parents who
13 struggle with runaway, truancy, and criminal conduct by their children.
14 At the same time, parents must be held accountable to ensure that their
15 responsibilities to their children and to society are carried out.

16 In order to meet those goals the legislature adopts these revisions
17 to the 1977 juvenile justice act emphasizing juvenile and parental
18 accountability and encouraging early and effective intervention in the

1 lives of juveniles at risk to become runaways, truants, or criminal
2 offenders.

3 **Sec. 2.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended to
4 read as follows:

5 (1) Except as provided in subsection (2) of this section, the
6 juvenile courts in the several counties of this state, shall have
7 exclusive original jurisdiction over all proceedings:

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

10 (b) Relating to children alleged or found to be dependent as
11 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

12 (c) Relating to the termination of a parent and child relationship
13 as provided in RCW 13.34.180 through 13.34.210;

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

16 (e) Relating to juveniles alleged or found to have committed
17 offenses, traffic infractions, or violations as provided in RCW
18 13.40.020 through 13.40.230, unless:

19 (i) The juvenile court transfers jurisdiction of a particular
20 juvenile to adult criminal court pursuant to RCW 13.40.110; or

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

23 (iii) The alleged offense or infraction is a traffic, fish,
24 boating, or game offense or traffic infraction committed by a juvenile
25 sixteen years of age or older and would, if committed by an adult, be
26 tried or heard in a court of limited jurisdiction, in which instance
27 the appropriate court of limited jurisdiction shall have jurisdiction
28 over the alleged offense or infraction: PROVIDED, That if such an
29 alleged offense or infraction and an alleged offense or infraction
30 subject to juvenile court jurisdiction arise out of the same event or
31 incident, the juvenile court may have jurisdiction of both matters:
32 PROVIDED FURTHER, That the jurisdiction under this subsection does not
33 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
34 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
35 jurisdiction which confine juveniles for an alleged offense or
36 infraction may place juveniles in juvenile detention facilities under
37 an agreement with the officials responsible for the administration of
38 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

1 (iv) The juvenile is sixteen or seventeen years old and the alleged
2 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
3 committed on or after June 13, 1994; or (B) a violent offense as
4 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
5 juvenile has a criminal history consisting of: (I) One or more prior
6 serious violent offenses; (II) two or more prior violent offenses; or
7 (III) three or more of any combination of the following offenses: Any
8 class A felony, any class B felony, vehicular assault, or manslaughter
9 in the second degree, all of which must have been committed after the
10 juvenile's thirteenth birthday and prosecuted separately. In such a
11 case the adult criminal court shall have exclusive original
12 jurisdiction.

13 If the juvenile challenges the state's determination of the
14 juvenile's criminal history, the state may establish the offender's
15 criminal history by a preponderance of the evidence. If the criminal
16 history consists of adjudications entered upon a plea of guilty, the
17 state shall not bear a burden of establishing the knowing and
18 voluntariness of the plea;

19 (f) Under the interstate compact on juveniles as provided in
20 chapter 13.24 RCW;

21 (g) Relating to termination of a diversion agreement under RCW
22 13.40.080, including a proceeding in which the divertee has attained
23 eighteen years of age; and

24 (h) Relating to court validation of a voluntary consent to foster
25 care placement under chapter 13.34 RCW, by the parent or Indian
26 custodian of an Indian child, except if the parent or Indian custodian
27 and child are residents of or domiciled within the boundaries of a
28 federally recognized Indian reservation over which the tribe exercises
29 exclusive jurisdiction.

30 (2) The family court shall have concurrent original jurisdiction
31 with the juvenile court over all proceedings under this section if the
32 superior court judges of a county authorize concurrent jurisdiction as
33 provided in RCW 26.12.010.

34 (3) A juvenile subject to adult superior court jurisdiction under
35 subsection (1)(e) (i) through (iv) of this section, who is detained
36 pending trial, may be detained in a county detention facility as
37 defined in RCW 13.40.020 pending sentencing or a dismissal.

38 (4) A parent, guardian, or custodian who has custody of any
39 juvenile described in this section, if such parent, guardian, or

1 custodian was served with a summons, shall be subject to the
2 jurisdiction of the court.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.40 RCW
4 to read as follows:

5 (1) As provided in this chapter, the court may order a juvenile to
6 post a probation bond as defined in RCW 13.40.020 or to deposit cash or
7 post other collateral in lieu of a probation bond, to enhance public
8 safety, increase the likelihood that a respondent will appear as
9 required to respond to charges, and increase compliance with community
10 supervision imposed under various alternative disposition options. The
11 parents or guardians of the juvenile may sign for a probation bond on
12 behalf of the juvenile or deposit cash or other collateral in lieu of
13 a bond if approved by the court.

14 (2) A parent or guardian who has signed for a probation bond,
15 deposited cash, or posted other collateral on behalf of a juvenile has
16 the right to notify the court if the juvenile violates any of the terms
17 and conditions of the bond. The parent or guardian who signed for a
18 probation bond may move the court to modify the terms of the bond or
19 revoke the bond without penalty to the surety or parent. The court
20 shall notify the surety if a parent or guardian notifies the court that
21 the juvenile has violated conditions of the probation bond and has
22 requested modification or revocation of the bond. At a hearing on the
23 motion, the court may consider the nature and seriousness of the
24 violation or violations and may either keep the bond in effect, modify
25 the terms of the bond with the consent of the parent or guardian and
26 surety, or revoke the bond. If the court revokes the bond the court
27 may require full payment of the face amount of the bond. In the
28 alternative, the court may revoke the bond and impose a partial payment
29 for less than the full amount of the bond or may revoke the bond
30 without imposing any penalty. In reaching its decision, the court may
31 consider the timeliness of the parent's or guardian's notification to
32 the court and the efforts of the parent and surety to monitor the
33 offender's compliance with conditions of the bond and release. A
34 surety shall have the same obligations and rights as provided sureties
35 in adult criminal cases. Rules of forfeiture and revocation of bonds
36 issued in adult criminal cases shall apply to forfeiture and revocation
37 of probation bonds issued under this chapter except as specifically
38 provided in this subsection.

1 **Sec. 4.** RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,
2 and 1994 c 261 s 18 are each reenacted and amended to read as follows:

3 For the purposes of this chapter:

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

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

8 (b) Manslaughter in the first degree; or

9 (c) Assault in the second degree, extortion in the first degree,
10 child molestation in the second degree, kidnapping in the second
11 degree, robbery in the second degree, residential burglary, or burglary
12 in the second degree, where such offenses include the infliction of
13 bodily harm upon another or where during the commission of or immediate
14 withdrawal from such an offense the perpetrator is armed with a deadly
15 weapon;

16 (2) "Community service" means compulsory service, without
17 compensation, performed for the benefit of the community by the
18 offender as punishment for committing an offense. Community service
19 may be performed through public or private organizations or through
20 work crews;

21 (3) "Community supervision" means an order of disposition by the
22 court of an adjudicated youth not committed to the department or an
23 order granting a deferred adjudication pursuant to RCW 13.40.125. A
24 community supervision order for a single offense may be for a period of
25 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
26 one year for other offenses. As a mandatory condition of any term of
27 community supervision, the court shall order the juvenile to refrain
28 from committing new offenses. As a mandatory condition of community
29 supervision, the court shall order the juvenile to comply with the
30 mandatory school attendance provisions of chapter 28A.225 RCW and to
31 inform the school of the existence of this requirement. Community
32 supervision is an individualized program comprised of one or more of
33 the following:

34 (a) Community-based sanctions;

35 (b) Community-based rehabilitation;

36 (c) Monitoring and reporting requirements;

37 (d) Posting of a probation bond imposed pursuant to RCW 13.40.0357;

38 (4) Community-based sanctions may include one or more of the
39 following:

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

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

4 (5) "Community-based rehabilitation" means one or more of the
5 following: Attendance of information classes; counseling, outpatient
6 substance abuse treatment programs, outpatient mental health programs,
7 anger management classes, education or outpatient treatment programs to
8 prevent animal cruelty, or other services; or attendance at school or
9 other educational programs appropriate for the juvenile as determined
10 by the school district. Placement in community-based rehabilitation
11 programs is subject to available funds;

12 (6) "Monitoring and reporting requirements" means one or more of
13 the following: Curfews; requirements to remain at home, school, work,
14 or court-ordered treatment programs during specified hours;
15 restrictions from leaving or entering specified geographical areas;
16 requirements to report to the probation officer as directed and to
17 remain under the probation officer's supervision; and other conditions
18 or limitations as the court may require which may not include
19 confinement;

20 (7) "Confinement" means physical custody by the department of
21 social and health services in a facility operated by or pursuant to a
22 contract with the state, or physical custody in a detention facility
23 operated by or pursuant to a contract with any county. The county may
24 operate or contract with vendors to operate county detention
25 facilities. The department may operate or contract to operate
26 detention facilities for juveniles committed to the department.
27 Pretrial confinement or confinement of less than thirty-one days
28 imposed as part of a disposition or modification order may be served
29 consecutively or intermittently, in the discretion of the court;

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

32 (9) "Criminal history" includes all criminal complaints against the
33 respondent for which, prior to the commission of a current offense:

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

38 (b) The criminal complaint was diverted by a prosecutor pursuant to
39 the provisions of this chapter on agreement of the respondent and after

1 an advisement to the respondent that the criminal complaint would be
2 considered as part of the respondent's criminal history. A
3 successfully completed deferred adjudication shall not be considered
4 part of the respondent's criminal history;

5 (10) "Department" means the department of social and health
6 services;

7 (11) "Detention facility" means a county facility, paid for by the
8 county, for the physical confinement of a juvenile alleged to have
9 committed an offense or an adjudicated offender subject to a
10 disposition or modification order. "Detention facility" includes
11 county group homes, inpatient substance abuse programs, juvenile basic
12 training camps, and electronic monitoring;

13 (12) "Diversion unit" means any probation counselor who enters into
14 a diversion agreement with an alleged youthful offender, or any other
15 person, community accountability board, or other entity except a law
16 enforcement official or entity, with whom the juvenile court
17 administrator has contracted to arrange and supervise such agreements
18 pursuant to RCW 13.40.080, or any person, community accountability
19 board, or other entity specially funded by the legislature to arrange
20 and supervise diversion agreements in accordance with the requirements
21 of this chapter. For purposes of this subsection, "community
22 accountability board" means a board comprised of members of the local
23 community in which the juvenile offender resides. The superior court
24 shall appoint the members. The boards shall consist of at least three
25 and not more than seven members. If possible, the board should include
26 a variety of representatives from the community, such as a law
27 enforcement officer, teacher or school administrator, high school
28 student, parent, and business owner, and should represent the cultural
29 diversity of the local community;

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

32 (14) "Juvenile," "youth," and "child" mean any individual who is
33 under the chronological age of eighteen years and who has not been
34 previously transferred to adult court pursuant to RCW 13.40.110 or who
35 is otherwise under adult court jurisdiction;

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

1 (16) "Manifest injustice" means a disposition that would either
2 impose an excessive penalty on the juvenile or would impose a serious,
3 and clear danger to society in light of the purposes of this chapter;

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

6 (18) "Minor or first offender" means a person whose current
7 offense(s) and criminal history fall entirely within one of the
8 following categories:

9 (a) Four misdemeanors;

10 (b) Two misdemeanors and one gross misdemeanor;

11 (c) One misdemeanor and two gross misdemeanors; and

12 (d) Three gross misdemeanors.

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

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

19 (20) "Respondent" means a juvenile who is alleged or proven to have
20 committed an offense;

21 (21) "Restitution" means financial reimbursement by the offender to
22 the victim, and shall be limited to easily ascertainable damages for
23 injury to or loss of property, actual expenses incurred for medical
24 treatment for physical injury to persons, lost wages resulting from
25 physical injury, and costs of the victim's counseling reasonably
26 related to the offense if the offense is a sex offense. Restitution
27 shall not include reimbursement for damages for mental anguish, pain
28 and suffering, or other intangible losses. Nothing in this chapter
29 shall limit or replace civil remedies or defenses available to the
30 victim or offender;

31 (22) "Secretary" means the secretary of the department of social
32 and health services. "Assistant secretary" means the assistant
33 secretary for juvenile rehabilitation for the department;

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

38 (24) "Sex offense" means an offense defined as a sex offense in RCW
39 9.94A.030;

1 (25) "Sexual motivation" means that one of the purposes for which
2 the respondent committed the offense was for the purpose of his or her
3 sexual gratification;

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

7 (27) "Violation" means an act or omission, which if committed by an
8 adult, must be proven beyond a reasonable doubt, and is punishable by
9 sanctions which do not include incarceration;

10 (28) "Violent offense" means a violent offense as defined in RCW
11 9.94A.030;

12 (29) "Probation bond" means a bond, posted with sufficient security
13 by a surety justified and approved by the court, to secure the
14 offender's appearance at required court proceedings and compliance with
15 court-ordered community supervision or conditions of release ordered
16 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
17 cash or posting of other collateral in lieu of a bond if approved by
18 the court;

19 (30) "Surety" means an entity licensed under state insurance laws
20 or by the state department of licensing, to write corporate, property,
21 or probation bonds within the state, and justified and approved by the
22 superior court of the county having jurisdiction of the case.

23 **Sec. 5.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
24 as follows:

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

29 ~~(2) The commission)~~ guidelines committee. The committee shall be
30 composed of ~~((the secretary or the secretary's designee and the~~
31 ~~following nine members appointed by the governor, subject to~~
32 ~~confirmation by the senate:—(a))~~: (1) A superior court judge;
33 ~~((b))~~ (2) a prosecuting attorney or deputy prosecuting attorney;
34 ~~((c))~~ (3) a representative from law enforcement ((officer)); ~~((d) an~~
35 ~~administrator of)~~ (4) a juvenile court ((services)) administrator;
36 ~~((e))~~ (5) a public defender actively practicing in juvenile court;
37 ~~((f))~~ (6) a ((county legislative official or)) representative from
38 county ((executive)) government; and ~~((g) three other persons who have~~

1 demonstrated significant interest in the adjudication and disposition
2 of juvenile offenders. In making the appointments, the governor shall
3 seek the recommendations of the association of superior court judges in
4 respect to the member who is a superior court judge; of Washington
5 prosecutors in respect to the prosecuting attorney or deputy
6 prosecuting attorney member; of the Washington association of sheriffs
7 and police chiefs in respect to the member who is a law enforcement
8 officer; of juvenile court administrators in respect to the member who
9 is a juvenile court administrator; and of the state bar association in
10 respect to the public defender member; and of the Washington
11 association of counties in respect to the member who is either a county
12 legislative official or county executive.

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

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

23 (5) Commission members shall be reimbursed for travel expenses as
24 provided in RCW 43.03.050 and 43.03.060. Members shall be compensated
25 in accordance with RCW 43.03.240.

26 (6) The commission shall meet at least once every three months))

27 (7) a representative from the juvenile rehabilitation administration.
28 The members of the committee shall be selected from the above groups in
29 the same manner as members of the sentencing guidelines commission as
30 set forth in RCW 9.94A.060. The sentencing guidelines commission shall
31 provide staff support to the committee.

32 **Sec. 6.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
33 as follows:

34 ((1)) It is the responsibility of the ((commission)) juvenile
35 disposition guidelines committee to((:—(a)(i))) evaluate the
36 effectiveness of existing disposition standards and related statutes in
37 implementing policies set forth in RCW 13.40.010 ((generally, (ii))
38 specifically review the guidelines relating to the confinement of minor

1 and first offenders as well as the use of diversion, and (iii) review
2 the application of current and proposed juvenile sentencing standards
3 and guidelines for potential adverse impacts on the sentencing outcomes
4 of racial and ethnic minority youth; (b) solicit the comments and
5 suggestions of the juvenile justice community concerning disposition
6 standards; and (c) make recommendations to the legislature regarding
7 revisions or modifications of the disposition standards in accordance
8 with RCW 13.40.030. The evaluations shall be submitted to the
9 legislature on December 1 of each even-numbered year thereafter.

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

18 The juvenile rehabilitation administration shall provide all
19 available data to committee staff concerning juvenile dispositions
20 within the administration and report on the effect of current statutes
21 on the performance of the administration's responsibilities.

22 **Sec. 7.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
23 as follows:

24 (1)(a) The juvenile disposition ((standards commission)) guidelines
25 committee shall recommend to the legislature no later than November 1st
26 of each year disposition standards for all offenses. The standards
27 shall establish, in accordance with the purposes of this chapter,
28 ranges which may include terms of confinement and/or community
29 supervision established on the basis of a youth's age, the instant
30 offense, and the history and seriousness of previous offenses, but in
31 no case may the period of confinement and supervision exceed that to
32 which an adult may be subjected for the same offense(s). Standards
33 recommended for offenders listed in RCW 13.40.020(1) shall include a
34 range of confinement which may not be less than thirty days. No
35 standard range may include a period of confinement which includes both
36 more than thirty, and thirty or less, days. Disposition standards
37 recommended by the ((commission)) committee shall provide that in all
38 cases where a youth is sentenced to a term of confinement in excess of

1 thirty days the department may impose an additional period of parole
2 not to exceed eighteen months. Standards of confinement which may be
3 proposed may relate only to the length of the proposed terms and not to
4 the nature of the security to be imposed. In developing recommended
5 disposition standards, the ((commission)) committee shall consider the
6 capacity of the state juvenile facilities and the projected impact of
7 the proposed standards on that capacity.

8 (b) The secretary shall submit guidelines pertaining to the nature
9 of the security to be imposed on youth placed in his or her custody
10 based on the age, offense(s), and criminal history of the juvenile
11 offender. Such guidelines shall be submitted to the legislature for
12 its review no later than November 1st of each year. At the same time
13 the secretary shall submit a report on security at juvenile facilities
14 during the preceding year. The report shall include the number of
15 escapes from each juvenile facility, the most serious offense for which
16 each escapee had been confined, the number and nature of offenses found
17 to have been committed by juveniles while on escape status, the number
18 of authorized leaves granted, the number of failures to comply with
19 leave requirements, the number and nature of offenses committed while
20 on leave, and the number and nature of offenses committed by juveniles
21 while in the community on minimum security status; to the extent this
22 information is available to the secretary. The department shall
23 include security status definitions in the security guidelines it
24 submits to the legislature pursuant to this section.

25 (2) In developing recommendations for the permissible ranges of
26 confinement under this section the ((commission)) committee shall ((be
27 subject to the following limitations:

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

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

34 (c) ~~Where the maximum term in the range is more than one year, the~~
35 ~~minimum term in the range may be no less than eighty percent of the~~
36 ~~maximum term in the range)) review the structure of the juvenile
37 dispositions grid and make recommendations to the legislature
38 concerning revisions of the grid.~~

1		Burglary and Trespass	
2	B+	Burglary 1 (9A.52.020)	C+
3	B	<u>Residential Burglary (9A.52.025)</u>	C
4	B	Burglary 2 (9A.52.030)	C
5	D	Burglary Tools (Possession of)	
6		(9A.52.060)	E
7	D	Criminal Trespass 1 (9A.52.070)	E
8	E	Criminal Trespass 2 (9A.52.080)	E
9	D	Vehicle Prowling (9A.52.100)	E
10		Drugs	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend	
16		Drug with Intent to Sell	
17		(69.41.030)	D+
18	E	Possession of Legend Drug	
19		(69.41.030)	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic Sale	
22		(69.50.401(a)(1)(i))	B+
23	C	Violation of Uniform Controlled	
24		Substances Act - Nonnarcotic Sale	
25		(69.50.401(a)(1)(ii))	C
26	E	Possession of Marihuana <40 grams	
27		(69.50.401(e))	E
28	C	Fraudulently Obtaining Controlled	
29		Substance (69.50.403)	C
30	C+	Sale of Controlled Substance	
31		for Profit (69.50.410)	C+
32	E	Unlawful Inhalation (9.47A.020)	E
33	B	Violation of Uniform Controlled	
34		Substances Act - Narcotic	
35		Counterfeit Substances	
36		(69.50.401(b)(1)(i))	B
37	C	Violation of Uniform Controlled	
38		Substances Act - Nonnarcotic	

1		Counterfeit Substances	
2		(69.50.401(b)(1) (ii), (iii), (iv))	C
3	C	Violation of Uniform Controlled	
4		Substances Act - Possession of a	
5		Controlled Substance	
6		(69.50.401(d))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(c))	C
11		Firearms and Weapons	
12	E	Carrying Loaded Pistol Without	
13		Permit (9.41.050)	E
14	C	Possession of Firearms by	
15		Minor (<18) (9.41.040(1)(e))	C
16	D+	Possession of Dangerous Weapon	
17		(9.41.250)	E
18	D	Intimidating Another Person by use	
19		of Weapon (9.41.270)	E
20		Homicide	
21	A+	Murder 1 (9A.32.030)	A
22	A+	Murder 2 (9A.32.050)	B+
23	B+	Manslaughter 1 (9A.32.060)	C+
24	C+	Manslaughter 2 (9A.32.070)	D+
25	B+	Vehicular Homicide (46.61.520)	C+
26		Kidnapping	
27	A	Kidnap 1 (9A.40.020)	B+
28	B+	Kidnap 2 (9A.40.030)	C+
29	C+	Unlawful Imprisonment	
30		(9A.40.040)	D+
31		Obstructing Governmental Operation	
32	E	Obstructing a ((Public Servant))	
33		<u>Law Enforcement Officer</u> (9A.76.020)	E
34	E	Resisting Arrest (9A.76.040)	E

1	B	Introducing Contraband 1	
2		(9A.76.140)	C
3	C	Introducing Contraband 2	
4		(9A.76.150)	D
5	E	Introducing Contraband 3	
6		(9A.76.160)	E
7	B+	Intimidating a Public Servant	
8		(9A.76.180)	C+
9	B+	Intimidating a Witness	
10		(9A.72.110)	C+
11		Public Disturbance	
12	C+	Riot with Weapon (9A.84.010)	D+
13	D+	Riot Without Weapon	
14		(9A.84.010)	E
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 (9A.44.040)	B+
19	A-	Rape 2 (9A.44.050)	B+
20	C+	Rape 3 (9A.44.060)	D+
21	A-	Rape of a Child 1 (9A.44.073)	B+
22	B	Rape of a Child 2 (9A.44.076)	C+
23	B	Incest 1 (9A.64.020(1))	C
24	C	Incest 2 (9A.64.020(2))	D
25	D+	Indecent Exposure	
26		(Victim <14) (9A.88.010)	E
27	E	Indecent Exposure	
28		(Victim 14 or over) (9A.88.010)	E
29	B+	Promoting Prostitution 1	
30		(9A.88.070)	C+
31	C+	Promoting Prostitution 2	
32		(9A.88.080)	D+
33	E	O & A (Prostitution) (9A.88.030)	E
34	B+	Indecent Liberties (9A.44.100)	C+
35	B+	Child Molestation 1 (9A.44.083)	C+
36	C+	Child Molestation 2 (9A.44.086)	C

1		Theft, Robbery, Extortion, and Forgery	
2	B	Theft 1 (9A.56.030)	C
3	C	Theft 2 (9A.56.040)	D
4	D	Theft 3 (9A.56.050)	E
5	B	Theft of Livestock (9A.56.080)	C
6	C	Forgery (9A.60.020)	D
7	A	Robbery 1 (9A.56.200)	B+
8	B+	Robbery 2 (9A.56.210)	C+
9	B+	Extortion 1 (9A.56.120)	C+
10	C+	Extortion 2 (9A.56.130)	D+
11	B	Possession of Stolen Property 1	
12		(9A.56.150)	C
13	C	Possession of Stolen Property 2	
14		(9A.56.160)	D
15	D	Possession of Stolen Property 3	
16		(9A.56.170)	E
17	C	Taking Motor Vehicle Without	
18		Owner's Permission (9A.56.070)	D
19		Motor Vehicle Related Crimes	
20	E	Driving Without a License	
21		(46.20.021)	E
22	C	Hit and Run - Injury	
23		(46.52.020(4))	D
24	D	Hit and Run-Attended	
25		(46.52.020(5))	E
26	E	Hit and Run-Unattended	
27		(46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing	
30		Police Vehicle (46.61.024)	D
31	E	Reckless Driving (46.61.500)	E
32	D	Driving While Under the Influence	
33		((46.61.515)) <u>46.61.502 or</u>	
34		<u>46.61.504</u>)	E
35	D	Vehicle Prowling (9A.52.100)	E
36	C	Taking Motor Vehicle Without	
37		Owner's Permission (9A.56.070)	D

1		Other	
2	B	Bomb Threat (9.61.160)	C
3	C	Escape 1 (9A.76.110)	C
4	C	Escape 2 (9A.76.120)	C
5	D	Escape 3 (9A.76.130)	E
6	((C	Failure to Appear in Court	
7		(10.19.130)	D))
8	E	Obscene, Harassing, Etc.,	
9		Phone Calls (9.61.230)	E
10	A	Other Offense Equivalent to an	
11		Adult Class A Felony	B+
12	B	Other Offense Equivalent to an	
13		Adult Class B Felony	C
14	C	Other Offense Equivalent to an	
15		Adult Class C Felony	D
16	D	Other Offense Equivalent to an	
17		Adult Gross Misdemeanor	E
18	E	Other Offense Equivalent to an	
19		Adult Misdemeanor	E
20	V	Violation of Order of Restitution,	
21		Community Supervision, or	
22		Confinement (13.40.200)	V

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

25 1st escape or attempted escape during 12-month period - 4 weeks
26 confinement

27 2nd escape or attempted escape during 12-month period - 8 weeks
28 confinement

29 3rd and subsequent escape or attempted escape during 12-month
30 period - 12 weeks confinement

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

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SCHEDULE B
PRIOR OFFENSE INCREASE FACTOR

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

TIME SPAN

OFFENSE	0-12	13-24	25 Months
CATEGORY	Months	Months	or More
.....			
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

SCHEDULE C
CURRENT OFFENSE POINTS

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

1

AGE

2 OFFENSE	12 &						
3 CATEGORY	Under	13	14	15	16	17	
4							
5 A+		STANDARD	RANGE	180-224	WEEKS		
6 A	250	300	350	375	375	375	
7 A-	150	150	150	200	200	200	
8 B+	110	110	120	130	140	150	
9 B	45	45	50	50	57	57	
10 C+	44	44	49	49	55	55	
11 C	40	40	45	45	50	50	
12 D+	16	18	20	22	24	26	
13 D	14	16	18	20	22	24	
14 E	4	4	4	6	8	10	

15 JUVENILE SENTENCING STANDARDS
 16 SCHEDULE D-1

17 This schedule may only be used for minor/first offenders. After the
 18 determination is made that a youth is a minor/first offender, the court
 19 has the discretion to select sentencing option A, B, or C.

20 MINOR/FIRST OFFENDER

21 OPTION A
 22 STANDARD RANGE

23	Community			
24	Community	Supervision	Service	Fine
25	Points		Hours	
26	((1-9	0-3 months	and/or 0-8	and/or 0-\$10
27	10-19	0-3 months	and/or 0-8	and/or 0-\$10
28	20-29	0-3 months	and/or 0-16	and/or 0-\$10
29	30-39	0-3 months	and/or 8-24	and/or 0-\$25
30	40-49	3-6 months	and/or 16-32	and/or 0-\$25
31	50-59	3-6 months	and/or 24-40	and/or 0-\$25
32	60-69	6-9 months	and/or 32-48	and/or 0-\$50

1 ~~70-79~~ ~~6-9 months~~ ~~and/or~~ ~~40-56~~ ~~and/or~~ ~~0-\$50~~
2 ~~80-89~~ ~~9-12 months~~ ~~and/or~~ ~~48-64~~ ~~and/or~~ ~~10-\$100~~
3 ~~90-109~~ ~~9-12 months~~ ~~and/or~~ ~~56-72~~ ~~and/or~~ ~~10-\$100))~~
4 1-109 0-12 months and/or 0-150 and/or 0-\$100

5 Posting of a Probation Bond

6 OR

7 OPTION B

8 STATUTORY OPTION

9 0-90 Days Inpatient Substance Abuse Treatment

10 0-12 Months Community Supervision

11 ~~((0-150 Hours Community Service~~

12 ~~0-100 Fine))~~

13 Posting of a Probation Bond

14 ~~((A term of community supervision with a maximum of 150 hours, \$100.00~~

15 ~~fine, and 12 months supervision.))~~

16 OR

17 OPTION C

18 MANIFEST INJUSTICE

19 When a term of community supervision would effectuate a manifest

20 injustice, another disposition may be imposed. When a judge imposes a

21 sentence of confinement exceeding 30 days, the court shall sentence the

22 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall

23 be used to determine the range.

24 JUVENILE SENTENCING STANDARDS

25 SCHEDULE D-2

26 This schedule may only be used for middle offenders. After the

27 determination is made that a youth is a middle offender, the court has

28 the discretion to select sentencing option A, B, ~~((or))~~ C, or D as

29 applicable.

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MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Community

Points	Community Supervision	Service Hours	Fine	Confinement ((Days-Weeks))
.....				
((1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30

110-129				8-12
130-149				13-16
150-199				21-28
200-249))				

(Days)

<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
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Posting of a Probation Bond

(Weeks)

<u>110-249</u>	<u>30-40</u>
<u>250-299</u>	<u>52-65</u>
<u>300-374</u>	<u>80-100</u>
<u>375+</u>	<u>103-129</u>

Middle offenders with less than 110 points do not have to receive a disposition under option A. They may be sent to inpatient substance abuse treatment under option D.

1 Middle offenders with (~~more than~~) 110 points or more do not have to
2 be committed to the department. They may be assigned community
3 supervision under option B.
4 All A+ offenses 180-224 weeks

5 OR

6
7 OPTION B

8 STATUTORY OPTION

9 OFFENDERS WITH 110 POINTS OR MORE

10 (~~0-12 Months Community Supervision~~
11 ~~0-150 Hours Community Service~~
12 ~~0-100 Fine~~)
13 Posting of a Probation Bond

14 The court may impose (~~a determinate disposition of community~~
15 ~~supervision and/or up to 30 days confinement; in which case, if~~
16 ~~confinement has been imposed, the court shall state either aggravating~~
17 ~~or mitigating factors as set forth in RCW 13.40.150~~) an option B
18 disposition as provided in RCW 13.40.160(4)(b) for offenders with 110
19 points or more.

20 OR

21
22 OPTION C

23 MANIFEST INJUSTICE

24 ALL MIDDLE OFFENDERS

25 If the court determines that a disposition under A (~~or~~), B, or D as
26 applicable would effectuate a manifest injustice, the court shall
27 sentence the juvenile to a maximum term and the provisions of RCW
28 13.40.030(2) shall be used to determine the range.

29 OPTION D

30 OFFENDERS UNDER 110 POINTS

31 0-90 Days Inpatient Substance Abuse Treatment
32 0-12 Months Community Supervision
33 Posting of a Probation Bond

1 JUVENILE SENTENCING STANDARDS

2 SCHEDULE D-3

3 This schedule may only be used for serious offenders. After the
4 determination is made that a youth is a serious offender, the court has
5 the discretion to select sentencing option A or B.

6 SERIOUS OFFENDER

7 OPTION A

8 STANDARD RANGE

9	Points	Institution Time
10	((0-129 _____	8-12 weeks
11	130-149 _____	13-16 weeks
12	150-199 _____	21-28 weeks
13	200-249)) <u>0-249</u>	30-40 weeks
14	250-299	52-65 weeks
15	300-374	80-100 weeks
16	375+	103-129 weeks
17	All A+	
18	Offenses	180-224 weeks

19 OR

20
21 OPTION B

22 MANIFEST INJUSTICE

23 A disposition outside the standard range shall be determined and shall
24 be comprised of confinement or community supervision including posting
25 of a probation bond or a combination thereof. When a judge finds a
26 manifest injustice and imposes a sentence of confinement exceeding 30
27 days, the court shall sentence the juvenile to a maximum term, and the
28 provisions of RCW 13.40.030(2) shall be used to determine the range.

29 **Sec. 9.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to read
30 as follows:

31 (1) A juvenile may be taken into custody:

1 (a) Pursuant to a court order if a complaint is filed with the
2 court alleging, and the court finds probable cause to believe, that the
3 juvenile has committed an offense or has violated terms of a
4 disposition order or release order; or

5 (b) Without a court order, by a law enforcement officer if grounds
6 exist for the arrest of an adult in identical circumstances. Admission
7 to, and continued custody in, a court detention facility shall be
8 governed by subsection (2) of this section; or

9 (c) Pursuant to a court order that the juvenile be held as a
10 material witness; or

11 (d) Where the secretary or the secretary's designee has suspended
12 the parole of a juvenile offender.

13 (2) A juvenile may not be held in detention unless there is
14 probable cause to believe that:

15 (a) The juvenile has committed an offense or has violated the terms
16 of a disposition order; and

17 (i) The juvenile will likely fail to appear for further
18 proceedings; or

19 (ii) Detention is required to protect the juvenile from himself or
20 herself; or

21 (iii) The juvenile is a threat to community safety; or

22 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
23 interfere with the administration of justice; or

24 (v) The juvenile has committed a crime while another case was
25 pending; or

26 (b) The juvenile is a fugitive from justice; or

27 (c) The juvenile's parole has been suspended or modified; or

28 (d) The juvenile is a material witness.

29 (3) Upon a finding that members of the community have threatened
30 the health of a juvenile taken into custody, at the juvenile's request
31 the court may order continued detention pending further order of the
32 court.

33 (4) A juvenile detained under this section may be released upon
34 posting a probation bond set by the court. The juvenile's parent or
35 guardian may sign for the probation bond. A court authorizing such a
36 release shall issue an order containing a statement of conditions
37 imposed upon the juvenile and shall set the date of his or her next
38 court appearance. The court shall advise the juvenile of any
39 conditions specified in the order and may at any time amend such an

1 order in order to impose additional or different conditions of release
2 upon the juvenile or to return the juvenile to custody for failing to
3 conform to the conditions imposed. In addition to requiring the
4 juvenile to appear at the next court date, the court may condition the
5 probation bond on the juvenile's compliance with conditions of release.
6 The juvenile's parent or guardian may notify the court that the
7 juvenile has failed to conform to the conditions of release or the
8 provisions in the probation bond. If the parent notifies the court of
9 the juvenile's failure to comply with the probation bond, the court
10 shall notify the surety. As provided in the terms of the bond, the
11 surety shall provide notice to the court of the offender's
12 noncompliance. A juvenile shall not be released except to a
13 responsible adult. Failure to appear on the date scheduled by the
14 court pursuant to this section shall constitute the crime of bail
15 jumping.

16 **Sec. 10.** RCW 13.40.050 and 1992 c 205 s 106 are each amended to
17 read as follows:

18 (1) When a juvenile taken into custody is held in detention:

19 (a) An information, a community supervision modification or
20 termination of diversion petition, or a parole modification petition
21 shall be filed within seventy-two hours, Saturdays, Sundays, and
22 holidays excluded, or the juvenile shall be released; and

23 (b) A detention hearing, a community supervision modification or
24 termination of diversion petition, or a parole modification petition
25 shall be held within seventy-two hours, Saturdays, Sundays, and
26 holidays excluded, from the time of filing the information or petition,
27 to determine whether continued detention is necessary under RCW
28 13.40.040.

29 (2) Notice of the detention hearing, stating the time, place, and
30 purpose of the hearing, (~~and~~) stating the right to counsel, and
31 requiring attendance, shall be given to the parent, guardian, or
32 custodian if such person can be found and shall also be given to the
33 juvenile if over twelve years of age.

34 (3) At the commencement of the detention hearing, the court shall
35 advise the parties of their rights under this chapter and shall appoint
36 counsel as specified in this chapter.

37 (4) The court shall, based upon the allegations in the information,
38 determine whether the case is properly before it or whether the case

1 should be treated as a diversion case under RCW 13.40.080. If the case
2 is not properly before the court the juvenile shall be ordered
3 released.

4 (5) Notwithstanding a determination that the case is properly
5 before the court and that probable cause exists, a juvenile shall at
6 the detention hearing be ordered released on the juvenile's personal
7 recognizance pending further hearing unless the court finds detention
8 is necessary under RCW 13.40.040 (~~as now or hereafter amended~~)).

9 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
10 ~~hereafter amended,~~) the court shall impose the most appropriate of the
11 following conditions or, if necessary, any combination of the following
12 conditions:

13 (a) Place the juvenile in the custody of a designated person
14 agreeing to supervise such juvenile;

15 (b) Place restrictions on the travel of the juvenile during the
16 period of release;

17 (c) Require the juvenile to report regularly to and remain under
18 the supervision of the juvenile court;

19 (d) Impose any condition other than detention deemed reasonably
20 necessary to assure appearance as required; (~~or~~)

21 (e) Require that the juvenile return to detention during specified
22 hours; or

23 (f) Require the juvenile to post a probation bond set by the court
24 under terms and conditions as provided in RCW 13.40.040(4).

25 (7) A juvenile shall not be released except to a responsible adult.

26 (8) If the parent, guardian, or custodian of the juvenile in
27 detention is available, the court shall consult with them prior to a
28 determination to further detain or release the juvenile or treat the
29 case as a diversion case under RCW 13.40.080.

30 (9) If the parent, guardian, or custodian notified as provided in
31 this section fails without reasonable cause to appear, that person may
32 be proceeded against as for contempt of court for failing to appear.

33 NEW SECTION. Sec. 11. A new section is added to chapter 13.40 RCW
34 to read as follows:

35 When a juvenile charged with an offense posts a probation bond or
36 deposits cash or posts other collateral in lieu of a bond, ten dollars
37 of the total amount required to be posted as bail shall be paid in cash
38 as a nonrefundable bail fee. The bail fee shall be distributed to the

1 county for costs associated with implementing chapter . . . , Laws of
2 1995 (this act).

3 **Sec. 12.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
4 as follows:

5 (1) All actions under this chapter shall be commenced and tried in
6 the county where any element of the offense was committed except as
7 otherwise specially provided by statute. In cases in which diversion
8 is provided by statute, venue is in the county in which the juvenile
9 resides or in the county in which any element of the offense was
10 committed.

11 (2) For juveniles whose standard range disposition would include
12 confinement in excess of thirty days, the case and copies of all legal
13 and social documents pertaining thereto may in the discretion of the
14 court be transferred to the county where the juvenile resides for a
15 disposition hearing. All costs and arrangements for care and
16 transportation of the juvenile in custody shall be the responsibility
17 of the receiving county as of the date of the transfer of the juvenile
18 to such county, unless the counties otherwise agree.

19 (3) The case and copies of all legal and social documents
20 pertaining thereto may in the discretion of the court be transferred to
21 the county in which the juvenile resides for supervision and
22 enforcement of the disposition order. The court of the receiving
23 county has jurisdiction to modify and enforce the disposition order.

24 (4) The court upon motion of any party or upon its own motion may,
25 at any time, transfer a proceeding to another juvenile court when there
26 is reason to believe that an impartial proceeding cannot be held in the
27 county in which the proceeding was begun.

28 **Sec. 13.** RCW 13.40.125 and 1994 sp.s. c 7 s 545 are each amended
29 to read as follows:

30 (1) Upon motion at least fourteen days before commencement of
31 trial, the juvenile court has the power, after consulting the
32 juvenile's custodial parent or parents or guardian and with the consent
33 of the juvenile, to continue the case for adjudication for a period not
34 to exceed one year from the date ((of entry of the plea or finding of
35 guilt)) the motion is granted. The court may continue the case for an
36 additional one-year period for good cause.

1 (2) Any juvenile granted a deferral of adjudication under this
2 section shall be placed under community supervision. The court may
3 impose any conditions of supervision that it deems appropriate
4 including posting a probation bond. Payment of restitution, as
5 provided in RCW 13.40.190 shall also be a condition of community
6 supervision under this section.

7 (3) Upon full compliance with (~~such~~) conditions of supervision,
8 the court shall dismiss the case with prejudice.

9 (4) If the juvenile fails to comply with the terms of supervision,
10 the court shall enter an order of adjudication and proceed to
11 disposition. The juvenile's lack of compliance shall be determined by
12 the judge upon written motion by the prosecutor or the juvenile's
13 juvenile court community supervision counselor. A parent who signed
14 for a probation bond may notify the counselor if the juvenile fails to
15 comply with the bond or conditions of supervision. The counselor shall
16 notify the court and surety. A surety shall notify the court of the
17 juvenile's failure to comply with the probation bond. The state shall
18 bear the burden to prove by a preponderance of the evidence that the
19 juvenile has failed to comply with the terms of community supervision.

20 (5) If the juvenile agrees to a deferral of adjudication, the
21 juvenile shall waive all rights:

22 (a) To a speedy trial and disposition;

23 (b) To call and confront witnesses; and

24 (c) To a hearing on the record. The adjudicatory hearing shall be
25 limited to a reading of the court's record.

26 (6) A juvenile is not eligible for a deferred adjudication if:

27 (a) The juvenile's current offense is a sex or violent offense;

28 (b) The juvenile's criminal history includes any felony;

29 (c) The juvenile has a prior deferred adjudication; or

30 (d) The juvenile has had more than two diversions.

31 **Sec. 14.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
32 read as follows:

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

37 (2) If the respondent pleads guilty, the court may proceed with
38 disposition or may continue the case for a dispositional hearing. If

1 the respondent denies guilt, an adjudicatory hearing date shall be set.
2 The court shall notify the parent, guardian, or custodian who has
3 custody of any juvenile described in the charging document of the date,
4 time, and place of the dispositional or adjudicatory hearing, and
5 require attendance.

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

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

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

14 (6) If the respondent is found guilty the court may immediately
15 proceed to disposition or may continue the case for a dispositional
16 hearing. Notice of the time and place of the continued hearing may be
17 given in open court. If notice is not given in open court to a party,
18 the party and the parent, guardian, or custodian who has custody of the
19 juvenile shall be notified by mail of the time and place of the
20 continued hearing.

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

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

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

31 (10) If the parent, guardian, or custodian notified as provided in
32 this section fails without reasonable cause to appear, that person may
33 be proceeded against as for contempt of court for failing to appear.

34 **Sec. 15.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
35 read as follows:

36 (1) In disposition hearings all relevant and material evidence,
37 including oral and written reports, may be received by the court and
38 may be relied upon to the extent of its probative value, even though

1 such evidence may not be admissible in a hearing on the information.
2 The youth or the youth's counsel and the prosecuting attorney shall be
3 afforded an opportunity to examine and controvert written reports so
4 received and to cross-examine individuals making reports when such
5 individuals are reasonably available, but sources of confidential
6 information need not be disclosed. The prosecutor and counsel for the
7 juvenile may submit recommendations for disposition.

8 (2) For purposes of disposition:

9 (a) Violations which are current offenses count as misdemeanors;

10 (b) Violations may not count as part of the offender's criminal
11 history;

12 (c) In no event may a disposition for a violation include
13 confinement.

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

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

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

21 (c) Consider any predisposition reports;

22 (d) Consult with the respondent's parent, guardian, or custodian on
23 the appropriateness of dispositional options under consideration and
24 afford the respondent and the respondent's parent, guardian, or
25 custodian an opportunity to speak in the respondent's behalf;

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

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

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

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

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

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

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

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

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

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

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

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

16 (iii) The victim or victims were particularly vulnerable;

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

20 (v) The current offense included a finding of sexual motivation
21 pursuant to RCW 9.94A.127;

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

24 (vii) There are other complaints which have resulted in diversion
25 or a finding or plea of guilty but which are not included as criminal
26 history; and

27 (viii) The respondent is a sex offender eligible for the special
28 sex offender disposition alternative under RCW 13.40.160(5) and the
29 court finds that a longer disposition is necessary to provide an
30 incentive to comply with the terms of the disposition.

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

33 (a) The sex of the respondent;

34 (b) The race or color of the respondent or the respondent's family;

35 (c) The creed or religion of the respondent or the respondent's
36 family;

37 (d) The economic or social class of the respondent or the
38 respondent's family; and

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

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

6 **Sec. 16.** RCW 13.40.160 and 1994 sp.s. c 7 s 523 are each amended
7 to read as follows:

8 (1) When the respondent is found to be a serious offender, the
9 court shall commit the offender to the department for the standard
10 range of disposition for the offense, as indicated in option A of
11 schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and
12 (6) of this section.

13 If the court concludes, and enters reasons for its conclusion, that
14 disposition within the standard range would effectuate a manifest
15 injustice the court shall impose a disposition outside the standard
16 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
17 court's finding of manifest injustice shall be supported by clear and
18 convincing evidence.

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

28 (2) Where the respondent is found to be a minor or first offender,
29 the court shall order that the respondent serve a term of community
30 supervision as indicated in option A or option B of schedule D-1, RCW
31 13.40.0357 except as provided in subsections (5) and (6) of this
32 section. If the court determines that a disposition of community
33 supervision would effectuate a manifest injustice the court may impose
34 another disposition under option C of schedule D-1, RCW 13.40.0357.
35 Except as provided in subsection (5) of this section, a disposition
36 other than a community supervision may be imposed only after the court
37 enters reasons upon which it bases its conclusions that imposition of
38 community supervision would effectuate a manifest injustice. When a

1 judge finds a manifest injustice and imposes a sentence of confinement
2 exceeding thirty days, the court shall sentence the juvenile to a
3 maximum term, and the provisions of RCW 13.40.030(2) shall be used to
4 determine the range. The court's finding of manifest injustice shall
5 be supported by clear and convincing evidence.

6 Except for disposition of community supervision or a disposition
7 imposed pursuant to subsection (5) of this section, a disposition may
8 be appealed as provided in RCW 13.40.230 by the state or the
9 respondent. A disposition of community supervision or a disposition
10 imposed pursuant to subsection (5) of this section may not be appealed
11 under RCW 13.40.230.

12 (3) Where a respondent is found to have committed an offense for
13 which the respondent declined to enter into a diversion agreement, the
14 court shall impose a term of community supervision limited to the
15 conditions allowed in a diversion agreement as provided in RCW
16 13.40.080(2).

17 (4) If a respondent is found to be a middle offender:

18 (a) The court shall impose a determinate disposition within the
19 standard range(s) for such offense, as indicated in option A of
20 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and
21 (6) of this section(~~(:—PROVIDED, That)~~). If the standard range
22 includes a term of confinement exceeding thirty days, commitment shall
23 be to the department for the standard range of confinement; or

24 (b) If the middle offender has less than 110 points, the court
25 shall impose ((a disposition under (a) of this subsection, which shall
26 be suspended, and shall impose)) a determinate disposition of community
27 supervision and/or up to ((thirty)) ninety days ((confinement))
28 inpatient substance abuse treatment, as indicated in option ((B)) D of
29 schedule D-2, RCW 13.40.0357 ((in which case, if confinement has been
30 imposed, the court shall state either aggravating or mitigating factors
31 as set forth in RCW 13.40.150)).

32 If the middle offender has 110 points or more, the court may impose
33 a disposition under option A and may suspend the disposition on the
34 condition that the offender serve up to thirty days of confinement and
35 follow all conditions of community supervision. If the offender
36 violates any condition of the disposition, including conditions of a
37 probation bond, the court may impose sanctions pursuant to RCW
38 13.40.200 or may revoke the suspension and order execution of the
39 ((sentence)) disposition. The court shall give credit for any

1 confinement time previously served if that confinement was for the
2 offense for which the suspension is being revoked.

3 (c) Only if the court concludes, and enters reasons for its
4 conclusions, that disposition as provided in subsection (4)(a) or (b)
5 of this section would effectuate a manifest injustice, the court shall
6 sentence the juvenile to a maximum term, and the provisions of RCW
7 13.40.030(2) shall be used to determine the range. The court's finding
8 of manifest injustice shall be supported by clear and convincing
9 evidence.

10 (d) A disposition pursuant to subsection (4)(c) of this section is
11 appealable under RCW 13.40.230 by the state or the respondent. A
12 disposition pursuant to subsection (4) (a) or (b) of this section is
13 not appealable under RCW 13.40.230.

14 (5) When a serious, middle, or minor first offender is found to
15 have committed a sex offense, other than a sex offense that is also a
16 serious violent offense as defined by RCW 9.94A.030, and has no history
17 of a prior sex offense, the court, on its own motion or the motion of
18 the state or the respondent, may order an examination to determine
19 whether the respondent is amenable to treatment.

20 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 problems in addition to alleged deviant behaviors, the respondent's
24 social, educational, and employment situation, and other evaluation
25 measures used. The report shall set forth the sources of the
26 evaluator's information.

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

31 (a)(i) Frequency and type of contact between the offender and
32 therapist;

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

35 (iii) Monitoring plans, including any requirements regarding living
36 conditions, lifestyle requirements, and monitoring by family members,
37 legal guardians, or others;

38 (iv) Anticipated length of treatment; and

39 (v) Recommended crime-related prohibitions.

1 The court on its own motion may order, or on a motion by the state
2 shall order, a second examination regarding the offender's amenability
3 to treatment. The evaluator shall be selected by the party making the
4 motion. The defendant shall pay the cost of any second examination
5 ordered unless the court finds the defendant to be indigent in which
6 case the state shall pay the cost.

7 After receipt of reports of the examination, the court shall then
8 consider whether the offender and the community will benefit from use
9 of this special sex offender disposition alternative and consider the
10 victim's opinion whether the offender should receive a treatment
11 disposition under this section. If the court determines that this
12 special sex offender disposition alternative is appropriate, then the
13 court shall impose a determinate disposition within the standard range
14 for the offense, or if the court concludes, and enters reasons for its
15 conclusion, that such disposition would effectuate a manifest
16 injustice, the court shall impose a disposition pursuant to option C of
17 schedule D-1, option C of schedule D-2, or option B of schedule D-3 as
18 appropriate, and for either a standard range disposition or a manifest
19 injustice disposition the court may suspend the execution of the
20 disposition and place the offender on community supervision for up to
21 (~~two~~) three years. As a condition of the suspended disposition, the
22 court may impose the conditions of community supervision and other
23 conditions, including up to thirty days of confinement and requirements
24 that the offender do any one or more of the following:

25 (b)(i) Devote time to a specific education, employment, or
26 occupation;

27 (ii) Undergo available outpatient sex offender treatment for up to
28 two years, or inpatient sex offender treatment not to exceed the
29 standard range of confinement for that offense. A community mental
30 health center may not be used for such treatment unless it has an
31 appropriate program designed for sex offender treatment. The
32 respondent shall not change sex offender treatment providers or
33 treatment conditions without first notifying the prosecutor, the
34 probation counselor, and the court, and shall not change providers
35 without court approval after a hearing if the prosecutor or probation
36 counselor object to the change;

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

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

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

5 (vi) Pay all court-ordered legal financial obligations, perform
6 community service, or any combination thereof; ~~((or))~~

7 (vii) Make restitution to the victim for the cost of any counseling
8 reasonably related to the offense; or

9 (viii) Comply with the conditions of any court-ordered probation
10 bond.

11 The sex offender treatment provider shall submit quarterly reports
12 on the respondent's progress in treatment to the court and the parties.
13 The reports shall reference the treatment plan and include at a minimum
14 the following: Dates of attendance, respondent's compliance with
15 requirements, treatment activities, the respondent's relative progress
16 in treatment, and any other material specified by the court at the time
17 of the disposition.

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

20 Except as provided in this subsection (5), after July 1, 1991,
21 examinations and treatment ordered pursuant to this subsection shall
22 only be conducted by sex offender treatment providers certified by the
23 department of health pursuant to chapter 18.155 RCW. A sex offender
24 therapist who examines or treats a juvenile sex offender pursuant to
25 this subsection does not have to be certified by the department of
26 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
27 offender has already moved to another state or plans to move to another
28 state for reasons other than circumventing the certification
29 requirements; (B) no certified providers are available for treatment
30 within a reasonable geographical distance of the offender's home; and
31 (C) the evaluation and treatment plan comply with this subsection (5)
32 and the rules adopted by the department of health.

33 If the offender violates any condition of the disposition or the
34 court finds that the respondent is failing to make satisfactory
35 progress in treatment, the court may revoke the suspension and order
36 execution of the disposition or the court may impose a penalty of up to
37 thirty days' confinement for violating conditions of the disposition.
38 The court may order both execution of the disposition and up to thirty
39 days' confinement for the violation of the conditions of the

1 disposition. The court shall give credit for any confinement time
2 previously served if that confinement was for the offense for which the
3 suspension is being revoked.

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

9 (6) RCW 13.40.193 shall govern the disposition of any juvenile
10 adjudicated of possessing a firearm in violation of RCW 9.41.040(1)(e)
11 or any crime in which a special finding is entered that the juvenile
12 was armed with a firearm.

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

17 (8) Except as provided for in subsection (4)(b) or (5) of this
18 section or RCW 13.40.125, the court shall not suspend or defer the
19 imposition or the execution of the disposition.

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

23 (10) In all disposition orders that include commitment to the
24 department, the court shall make a finding of reasonable rehabilitative
25 goals to be achieved by the juvenile during the commitment term. These
26 goals may include, by way of example and not limitation, completion of
27 substance abuse treatment, completion of anger management courses, and
28 achievement of academic, educational, or vocational goals, such as
29 grade-level reading or general educational development test completion.

30 **Sec. 17.** RCW 13.40.185 and 1994 sp.s. c 7 s 524 are each amended
31 to read as follows:

32 (1) Any term of confinement imposed for an offense which exceeds
33 thirty days except under option B of schedule D-1 or option D of
34 schedule D-2 shall be served under the supervision of the department.
35 If the period of confinement imposed for more than one offense exceeds
36 thirty days but the term imposed for each offense is less than thirty
37 days, the confinement may, in the discretion of the court, be served in

1 a juvenile facility operated by or pursuant to a contract with the
2 state or a county.

3 (2) Whenever a juvenile is confined in a detention facility or is
4 committed to the department, the court may not directly order a
5 juvenile into a particular county or state facility. The juvenile
6 court administrator and the secretary, assistant secretary, or the
7 secretary's designee, as appropriate, has the sole discretion to
8 determine in which facility a juvenile should be confined or committed.
9 The counties may operate a variety of detention facilities as
10 determined by the county legislative authority subject to available
11 funds.

12 (3) Any commitment for inpatient substance abuse treatment under
13 option B of schedule D-1 or option D of schedule D-2 shall be under the
14 supervision of and paid by the county.

15 **Sec. 18.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to read
16 as follows:

17 (1) When a respondent fails to comply with an order of restitution,
18 community supervision, penalty assessments, or confinement of less than
19 thirty days, the court upon motion of the prosecutor or its own motion,
20 may modify the order after a hearing on the violation.

21 (2) The hearing shall afford the respondent the same due process of
22 law as would be afforded an adult probationer. The court may issue a
23 summons or a warrant to compel the respondent's appearance. The state
24 shall have the burden of proving by a preponderance of the evidence the
25 fact of the violation. The respondent shall have the burden of showing
26 that the violation was not a willful refusal to comply with the terms
27 of the order. If a respondent has failed to pay a fine, penalty
28 assessments, or restitution or to perform community service hours, as
29 required by the court, it shall be the respondent's burden to show that
30 he or she did not have the means and could not reasonably have acquired
31 the means to pay the fine, penalty assessments, or restitution or
32 perform community service.

33 (3)(a) If the court finds that a respondent has willfully violated
34 the terms of an order pursuant to subsections (1) and (2) of this
35 section, it may impose a penalty of up to thirty days' confinement.
36 Penalties for multiple violations occurring prior to the hearing shall
37 not be aggregated to exceed thirty days' confinement. Regardless of
38 the number of times a respondent is brought to court for violations of

1 the terms of a single disposition order, the combined total number of
2 days spent by the respondent in detention shall never exceed the
3 maximum term to which an adult could be sentenced for the underlying
4 offense.

5 (b) If the violation of the terms of the order under (a) of this
6 subsection is failure to pay fines, penalty assessments, complete
7 community service, or make restitution, the term of confinement imposed
8 under (a) of this subsection shall be assessed at a rate of one day of
9 confinement for each twenty-five dollars or eight hours owed.

10 (4) If a respondent has been ordered to pay a fine or monetary
11 penalty and due to a change of circumstance cannot reasonably comply
12 with the order, the court, upon motion of the respondent, may order
13 that the unpaid fine or monetary penalty be converted to community
14 service. The number of hours of community service in lieu of a
15 monetary penalty or fine shall be converted at the rate of the
16 prevailing state minimum wage per hour. The monetary penalties or
17 fines collected shall be deposited in the county general fund. A
18 failure to comply with an order under this subsection shall be deemed
19 a failure to comply with an order of community supervision and may be
20 proceeded against as provided in this section.

21 (5) When a respondent has willfully violated the terms of a
22 probation bond, the court may modify, revoke, or retain the probation
23 bond as provided in section 3 of this act.

24 **Sec. 19.** RCW 13.40.210 and 1994 sp.s. c 7 s 527 are each amended
25 to read as follows:

26 ~~(1) ((The secretary shall, except in the case of a juvenile~~
27 ~~committed by a court to a term of confinement in a state institution~~
28 ~~outside the appropriate standard range for the offense(s) for which the~~
29 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~
30 ~~set a release or discharge date for each juvenile committed to its~~
31 ~~custody. The release or discharge date shall be within the prescribed~~
32 ~~range to which a juvenile has been committed except as provided in RCW~~
33 ~~13.40.320 concerning offenders the department determines are eligible~~
34 ~~for the juvenile offender basic training camp program. Such dates~~
35 ~~shall be determined prior to the expiration of sixty percent of a~~
36 ~~juvenile's minimum term of confinement included within the prescribed~~
37 ~~range to which the juvenile has been committed.)) (a) When a juvenile~~
38 ~~is committed to a term of confinement in a state institution, the~~

1 secretary shall review the sentencing court's finding of the
2 rehabilitative goals to be achieved by the juvenile during the term of
3 confinement. The department shall provide rehabilitative resources,
4 including but not limited to education, vocational training, substance
5 abuse treatment, and counseling, to permit the juvenile to achieve
6 these rehabilitative goals.

7 (b) After expiration of no more than sixty percent of the
8 juvenile's minimum term, the department shall provide a report
9 containing an evaluation of the juvenile's behavior and performance
10 during confinement. This report shall specifically describe the
11 juvenile's progress toward achieving the designated rehabilitative
12 goals.

13 (c) The department shall provide this report to the committing
14 court. The court, after considering the department's report, shall
15 determine a release or discharge date for the juvenile, which date
16 shall fall on or before expiration of the maximum term of confinement
17 but not sooner than the minimum term of confinement. If a substantial
18 change in the juvenile's behavior occurs after the setting of the
19 release or discharge date, the department may submit an updated report
20 to the committing court. The committing court may change the release
21 or discharge date based upon the updated report. Nothing in this
22 subsection requires the court to hold a hearing in setting the release
23 or discharge date.

24 (d) Nothing in this section entitles a juvenile to release prior to
25 the expiration of the maximum term of confinement imposed by the court.

26 (e) After the court determines a release date, the court shall
27 notify the secretary by mail, and the secretary shall release any
28 juvenile committed to the custody of the department within four
29 calendar days prior to the juvenile's release date or on the release
30 date set under this chapter. Days spent in the custody of the
31 department shall be tolled by any period of time during which a
32 juvenile has absented himself or herself from the department's
33 supervision without the prior approval of the secretary or the
34 secretary's designee.

35 (2) The secretary shall monitor the average daily population of the
36 state's juvenile residential facilities. When the secretary concludes
37 that in-residence population of residential facilities exceeds one
38 hundred five percent of the rated bed capacity specified in statute, or
39 in absence of such specification, as specified by the department in

1 rule, the secretary may recommend reductions to the governor. On
2 certification by the governor that the recommended reductions are
3 necessary, the secretary has authority to administratively release a
4 sufficient number of offenders to reduce in-residence population to one
5 hundred percent of rated bed capacity. The secretary shall release
6 those offenders who have served the greatest proportion of their
7 sentence. However, the secretary may deny release in a particular case
8 at the request of an offender, or if the secretary finds that there is
9 no responsible custodian, as determined by the department, to whom to
10 release the offender, or if the release of the offender would pose a
11 clear danger to society. The department shall notify the committing
12 court of the release at the time of release if any such early releases
13 have occurred as a result of excessive in-residence population. In no
14 event shall an offender adjudicated of a violent offense be granted
15 release under the provisions of this subsection.

16 (3) Following the juvenile's release under subsection (1) of this
17 section, the secretary may require the juvenile to comply with a
18 program of parole to be administered by the department in his or her
19 community which shall last no longer than eighteen months, except that
20 in the case of a juvenile sentenced for rape in the first or second
21 degree, rape of a child in the first or second degree, child
22 molestation in the first degree, or indecent liberties with forcible
23 compulsion, the period of parole shall be twenty-four months. A parole
24 program is mandatory for offenders released under subsection (2) of
25 this section. The secretary shall, for the period of parole,
26 facilitate the juvenile's reintegration into his or her community and
27 to further this goal shall require the juvenile to refrain from
28 possessing a firearm or using a deadly weapon and refrain from
29 committing new offenses and may require the juvenile to: (a) Undergo
30 available medical or psychiatric treatment; (b) report as directed to
31 a parole officer; (c) pursue a course of study or vocational training;
32 and (d) remain within prescribed geographical boundaries and notify the
33 department of any change in his or her address. After termination of
34 the parole period, the juvenile shall be discharged from the
35 department's supervision.

36 (4)(a) The department may also modify parole for violation thereof.
37 If, after affording a juvenile all of the due process rights to which
38 he or she would be entitled if the juvenile were an adult, the
39 secretary finds that a juvenile has violated a condition of his or her

1 parole, the secretary shall order one of the following which is
2 reasonably likely to effectuate the purpose of the parole and to
3 protect the public: (i) Continued supervision under the same
4 conditions previously imposed; (ii) intensified supervision with
5 increased reporting requirements; (iii) additional conditions of
6 supervision authorized by this chapter; (iv) except as provided in
7 (a)(v) of this subsection, imposition of a period of confinement not to
8 exceed thirty days in a facility operated by or pursuant to a contract
9 with the state of Washington or any city or county for a portion of
10 each day or for a certain number of days each week with the balance of
11 the days or weeks spent under supervision; and (v) the secretary may
12 order any of the conditions or may return the offender to confinement
13 in an institution for the remainder of the sentence range if the
14 offense for which the offender was sentenced is rape in the first or
15 second degree, rape of a child in the first or second degree, child
16 molestation in the first degree, indecent liberties with forcible
17 compulsion, or a sex offense that is also a serious violent offense as
18 defined by RCW 9.94A.030.

19 (b) If the department finds that any juvenile in a program of
20 parole has possessed a firearm or used a deadly weapon during the
21 program of parole, the department shall modify the parole under (a) of
22 this subsection and confine the juvenile for at least thirty days.
23 Confinement shall be in a facility operated by or pursuant to a
24 contract with the state or any county.

25 (5) A parole officer of the department of social and health
26 services shall have the power to arrest a juvenile under his or her
27 supervision on the same grounds as a law enforcement officer would be
28 authorized to arrest the person.

29 (6) If so requested and approved under chapter 13.06 RCW, the
30 secretary shall permit a county or group of counties to perform
31 functions under subsections (3) through (5) of this section.

32 **Sec. 20.** RCW 13.40.320 and 1994 sp.s. c 7 s 532 are each amended
33 to read as follows:

34 (1) The department of social and health services shall establish
35 and operate a medium security juvenile offender basic training camp
36 program. The department shall site a juvenile offender basic training
37 camp facility in the most cost-effective facility possible and shall

1 review the possibility of using an existing abandoned and/or available
2 state, federally, or military-owned site or facility.

3 (2) The department may contract under this chapter with private
4 companies, the national guard, or other federal, state, or local
5 agencies to operate the juvenile offender basic training camp,
6 notwithstanding the provisions of RCW 41.06.380. Requests for
7 proposals from possible contractors shall not call for payment on a per
8 diem basis.

9 (3) The juvenile offender basic training camp shall accommodate at
10 least seventy offenders. The beds shall count as additions to, and not
11 be used as replacements for, existing bed capacity at existing
12 department of social and health services juvenile facilities.

13 (4) The juvenile offender basic training camp shall be a structured
14 and regimented model lasting one hundred twenty days emphasizing the
15 building up of an offender's self-esteem, confidence, and discipline.
16 The juvenile offender basic training camp program shall provide
17 participants with basic education, prevocational training, work-based
18 learning, live work, work ethic skills, conflict resolution counseling,
19 substance abuse intervention, anger management counseling, and
20 structured intensive physical training. The juvenile offender basic
21 training camp program shall have a curriculum training and work
22 schedule that incorporates a balanced assignment of these or other
23 rehabilitation and training components for no less than sixteen hours
24 per day, six days a week.

25 The department shall adopt rules for the safe and effective
26 operation of the juvenile offender basic training camp program,
27 standards for an offender's successful program completion, and rules
28 for the continued after-care supervision of offenders who have
29 successfully completed the program.

30 (5) Offenders eligible for the juvenile offender basic training
31 camp option shall be those with a disposition of at least (~~(fifty-two))~~
32 thirty weeks but not more than (~~(seventy-eight))~~ forty weeks. Violent
33 and sex offenders and offenders previously placed in the juvenile
34 offender basic training camp program shall not be eligible for the
35 juvenile offender basic training camp program.

36 (6) If the court determines that the offender is eligible for the
37 juvenile offender basic training camp option, the court may recommend
38 that the department place the offender in the program. The department
39 shall evaluate the offender and may place the offender in the program.

1 No juvenile who suffers from any mental or physical problems that could
2 endanger his or her health or drastically affect his or her performance
3 in the program shall be admitted to or retained in the juvenile
4 offender basic training camp program.

5 (7) All juvenile offenders eligible for the juvenile offender basic
6 training camp sentencing option shall spend the first one hundred
7 twenty days of their disposition in a juvenile offender basic training
8 camp. If the juvenile offender's activities while in the juvenile
9 offender basic training camp are so disruptive to the juvenile offender
10 basic training camp program, as determined by the secretary according
11 to rules adopted by the department, as to result in the removal of the
12 juvenile offender from the juvenile offender basic training camp
13 program, or if the offender cannot complete the juvenile offender basic
14 training camp program due to medical problems, the secretary shall
15 require that the offender be committed to a juvenile institution to
16 serve the entire remainder of his or her disposition, less the amount
17 of time already served in the juvenile offender basic training camp
18 program.

19 (8) All offenders who successfully graduate from the one hundred
20 twenty day juvenile offender basic training camp program shall spend
21 the remainder of (~~their~~) his or her disposition on parole in a
22 (~~division of~~) juvenile rehabilitation administration intensive
23 aftercare program in the local community. The program shall provide
24 for the needs of the offender based on his or her progress in the
25 aftercare program as indicated by ongoing assessment of those needs and
26 progress. The intensive aftercare program shall monitor postprogram
27 juvenile offenders and assist them to successfully reintegrate into the
28 community. In addition, the program shall develop a process for
29 closely monitoring and assessing public safety risks. The intensive
30 aftercare program shall be designed and funded by the department of
31 social and health services.

32 (9) The department shall also develop and maintain a data base to
33 measure recidivism rates specific to this incarceration program. The
34 data base shall maintain data on all juvenile offenders who complete
35 the juvenile offender basic training camp program for a period of two
36 years after they have completed the program. The data base shall also
37 maintain data on the criminal activity, educational progress, and
38 employment activities of all juvenile offenders who participated in the
39 program. The department shall produce an outcome evaluation report on

1 the progress of the juvenile offender basic training camp program to
2 the appropriate committees of the legislature no later than December
3 12, 1996.

4 **Sec. 21.** RCW 28A.225.020 and 1992 c 205 s 202 are each amended to
5 read as follows:

6 If a juvenile required to attend school under the laws of the state
7 of Washington fails to attend school without valid justification, the
8 juvenile's school shall:

9 (1) Inform the juvenile's custodial parent, parents or guardian by
10 a notice in writing or by telephone that the juvenile has failed to
11 attend school without valid justification after one unexcused absence
12 within any month during the current school year;

13 (2) Schedule a conference or conferences with the custodial parent,
14 parents or guardian and juvenile at a time and place reasonably
15 convenient for all persons included for the purpose of analyzing the
16 causes of the juvenile's absences after two unexcused absences within
17 any month during the current school year. If a regularly scheduled
18 parent-teacher conference day is to take place within thirty days of
19 the second unexcused absence, then the school district may schedule
20 this conference on that day; and

21 (3) Take steps to eliminate or reduce the juvenile's absences.
22 These steps shall include, where appropriate, adjusting the juvenile's
23 school program or school or course assignment, providing more
24 individualized or remedial instruction, preparing the juvenile for
25 employment with specific vocational courses or work experience, or
26 (~~both~~) refer the juvenile to a community truancy board, and assisting
27 the parent or student to obtain supplementary services that might
28 eliminate or ameliorate the cause or causes for the absence from
29 school.

30 **Sec. 22.** RCW 28A.225.030 and 1992 c 205 s 203 are each amended to
31 read as follows:

32 If action taken by a school pursuant to RCW 28A.225.020 is not
33 successful in substantially reducing a student's absences from school,
34 any of the following actions may be taken after five or more unexcused
35 absences during the current school year: (1) The attendance officer of
36 the school district or the community truancy board through its attorney
37 may petition the (~~juvenile~~) court to assume jurisdiction under RCW

1 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150 for the
2 purpose of alleging a violation of RCW 28A.225.010 by the parent; or
3 (2) a petition alleging a violation of RCW 28A.225.010 by a child may
4 be filed with the ((juvenile)) court by the parent of such child or by
5 the attendance officer of the school district or the community truancy
6 board through its attorney at the request of the parent. If the court
7 assumes jurisdiction in such an instance, the provisions of RCW
8 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150, except
9 where otherwise stated, shall apply.

10 NEW SECTION. **Sec. 23.** A new section is added to chapter 28A.225
11 RCW to read as follows:

12 For purposes of this chapter, "community truancy board" means a
13 board comprised of members of the local community in which the juvenile
14 attends school. The local school district shall direct the formation
15 of the board, and if possible include a variety of representatives from
16 the community. The community truancy board shall set conditions
17 designed to improve school attendance and monitor subsequent school
18 attendance.

19 **Sec. 24.** RCW 28A.225.150 and 1992 c 205 s 205 are each amended to
20 read as follows:

21 The school district attendance officer shall report biannually to
22 the educational service district superintendent, in the instance of
23 petitions filed alleging a violation by a child under RCW 28A.225.030:

24 (1) The number of petitions filed by a school district or by a
25 parent;

26 (2) The frequency of each action taken under RCW 28A.225.020 prior
27 to the filing of such petition;

28 (3) When deemed appropriate under RCW 28A.225.020, the frequency of
29 delivery of supplemental services; and

30 (4) Disposition of cases filed with the ((juvenile)) court,
31 including the frequency of contempt orders issued to enforce a court's
32 order under RCW 28A.225.090.

33 The educational service district superintendent shall compile such
34 information and report annually to the superintendent of public
35 instruction. The superintendent of public instruction shall compile
36 such information and report to the committees of the house of
37 representatives and the senate by September 1 of each year.

1 **Sec. 25.** RCW 70.96A.095 and 1991 c 364 s 9 are each amended to
2 read as follows:

3 Any person fourteen years of age or older may give consent for
4 himself or herself to the furnishing of counseling, care, treatment, or
5 rehabilitation by a treatment program or by any person. Consent of the
6 parent, parents, or legal guardian of a person less than eighteen years
7 of age is not necessary to authorize the care, except that the person
8 shall not become a resident of the treatment program without such
9 permission except as provided in RCW 70.96A.120 or 70.96A.140. The
10 parent, parents, or legal guardian of a person less than eighteen years
11 of age are not liable for payment of care for such persons pursuant to
12 this chapter, unless they have joined in the consent to the counseling,
13 care, treatment, or rehabilitation. The parent's, parents', or
14 guardians' insurance carrier is also not liable for payment and shall
15 not be billed for payment unless the parent, parents, or guardian has
16 given consent.

17 **NEW SECTION. Sec. 26.** A new section is added to chapter 70.96A
18 RCW to read as follows:

19 Nothing in this chapter authorizes school district personnel to
20 refer minors to any treatment program or treatment provider without
21 providing notice of the referral to the parent, parents, or guardians.

22 **Sec. 27.** RCW 70.96A.140 and 1993 c 362 s 1 are each amended to
23 read as follows:

24 (1) When a designated chemical dependency specialist receives
25 information alleging that a person is incapacitated as a result of
26 chemical dependency, the designated chemical dependency specialist,
27 after investigation and evaluation of the specific facts alleged and of
28 the reliability and credibility of the information, may file a petition
29 for commitment of such person with the superior court or district
30 court.

31 If a petition for commitment is not filed in the case of a minor,
32 the parent, guardian, or custodian who has custody of the minor may
33 seek review of that decision made by the designated chemical dependency
34 specialist in superior or district court. The parent, guardian, or
35 custodian shall file notice with the court and provide a copy of the
36 designated chemical dependency specialist's report.

1 If the designated chemical dependency specialist finds that the
2 initial needs of such person would be better served by placement within
3 the mental health system, the person shall be referred to an evaluation
4 and treatment facility as defined in RCW 71.05.020 or 71.34.020. If
5 placement in a chemical dependency program is available and deemed
6 appropriate, the petition shall allege that: The person is chemically
7 dependent and is incapacitated by alcohol or drug addiction, or that
8 the person has twice before in the preceding twelve months been
9 admitted for detoxification or chemical dependency treatment pursuant
10 to RCW 70.96A.110, and is in need of a more sustained treatment
11 program, or that the person is chemically dependent and has threatened,
12 attempted, or inflicted physical harm on another and is likely to
13 inflict physical harm on another unless committed. A refusal to
14 undergo treatment, by itself, does not constitute evidence of lack of
15 judgment as to the need for treatment. The petition shall be
16 accompanied by a certificate of a licensed physician who has examined
17 the person within five days before submission of the petition, unless
18 the person whose commitment is sought has refused to submit to a
19 medical examination, in which case the fact of refusal shall be alleged
20 in the petition. The certificate shall set forth the licensed
21 physician's findings in support of the allegations of the petition. A
22 physician employed by the petitioning program or the department is
23 eligible to be the certifying physician.

24 (2) Upon filing the petition, the court shall fix a date for a
25 hearing no less than two and no more than seven days after the date the
26 petition was filed unless the person petitioned against is presently
27 being detained in a program, pursuant to RCW 70.96A.120, 71.05.210, or
28 71.34.050, (~~as now or hereafter amended,~~) in which case the hearing
29 shall be held within seventy-two hours of the filing of the petition:
30 PROVIDED, HOWEVER, That the above specified seventy-two hours shall be
31 computed by excluding Saturdays, Sundays, and holidays: PROVIDED
32 FURTHER, That, the court may, upon motion of the person whose
33 commitment is sought, or upon motion of petitioner with written
34 permission of the person whose commitment is sought, or his or her
35 counsel and, upon good cause shown, extend the date for the hearing.
36 A copy of the petition and of the notice of the hearing, including the
37 date fixed by the court, shall be served by the designated chemical
38 dependency specialist on the person whose commitment is sought, his or
39 her next of kin, a parent or his or her legal guardian if he or she is

1 a minor, and any other person the court believes advisable. A copy of
2 the petition and certificate shall be delivered to each person
3 notified.

4 (3) At the hearing the court shall hear all relevant testimony,
5 including, if possible, the testimony, which may be telephonic, of at
6 least one licensed physician who has examined the person whose
7 commitment is sought. Communications otherwise deemed privileged under
8 the laws of this state are deemed to be waived in proceedings under
9 this chapter when a court of competent jurisdiction in its discretion
10 determines that the waiver is necessary to protect either the detained
11 person or the public. The waiver of a privilege under this section is
12 limited to records or testimony relevant to evaluation of the detained
13 person for purposes of a proceeding under this chapter. Upon motion by
14 the detained person, or on its own motion, the court shall examine a
15 record or testimony sought by a petitioner to determine whether it is
16 within the scope of the waiver.

17 The record maker shall not be required to testify in order to
18 introduce medical, nursing, or psychological records of detained
19 persons so long as the requirements of RCW 5.45.020 are met, except
20 that portions of the record that contain opinions as to whether the
21 detained person is chemically dependent shall be deleted from the
22 records unless the person offering the opinions is available for cross-
23 examination. The person shall be present unless the court believes
24 that his or her presence is likely to be injurious to him or her; in
25 this event the court may deem it appropriate to appoint a guardian ad
26 litem to represent him or her throughout the proceeding. If deemed
27 advisable, the court may examine the person out of courtroom. If the
28 person has refused to be examined by a licensed physician, he or she
29 shall be given an opportunity to be examined by a court appointed
30 licensed physician. If he or she refuses and there is sufficient
31 evidence to believe that the allegations of the petition are true, or
32 if the court believes that more medical evidence is necessary, the
33 court may make a temporary order committing him or her to the
34 department for a period of not more than five days for purposes of a
35 diagnostic examination.

36 (4) If after hearing all relevant evidence, including the results
37 of any diagnostic examination, the court finds that grounds for
38 involuntary commitment have been established by clear, cogent, and
39 convincing proof, it shall make an order of commitment to an approved

1 treatment program. It shall not order commitment of a person unless it
2 determines that an approved treatment program is available and able to
3 provide adequate and appropriate treatment for him or her.

4 (5) A person committed under this section shall remain in the
5 program for treatment for a period of sixty days unless sooner
6 discharged. At the end of the sixty-day period, he or she shall be
7 discharged automatically unless the program, before expiration of the
8 period, files a petition for his or her recommitment upon the grounds
9 set forth in subsection (1) of this section for a further period of
10 ninety days unless sooner discharged.

11 If a petition for recommitment is not filed in the case of a minor,
12 the parent, guardian, or custodian who has custody of the minor may
13 seek review of that decision made by the designated chemical dependency
14 specialist in superior or district court. The parent, guardian, or
15 custodian shall file notice with the court and provide a copy of the
16 treatment progress report.

17 If a person has been committed because he or she is chemically
18 dependent and likely to inflict physical harm on another, the program
19 shall apply for recommitment if after examination it is determined that
20 the likelihood still exists.

21 (6) Upon the filing of a petition for recommitment under subsection
22 (5) of this section, the court shall fix a date for hearing no less
23 than two and no more than seven days after the date the petition was
24 filed: PROVIDED, That, the court may, upon motion of the person whose
25 commitment is sought and upon good cause shown, extend the date for the
26 hearing. A copy of the petition and of the notice of hearing,
27 including the date fixed by the court, shall be served by the treatment
28 program on the person whose commitment is sought, his or her next of
29 kin, the original petitioner under subsection (1) of this section if
30 different from the petitioner for recommitment, one of his or her
31 parents or his or her legal guardian if he or she is a minor, and his
32 or her attorney and any other person the court believes advisable. At
33 the hearing the court shall proceed as provided in subsection (3) of
34 this section.

35 (7) The approved treatment program shall provide for adequate and
36 appropriate treatment of a person committed to its custody. A person
37 committed under this section may be transferred from one approved
38 public treatment program to another if transfer is medically advisable.

1 (8) A person committed to the custody of a program for treatment
2 shall be discharged at any time before the end of the period for which
3 he or she has been committed and he or she shall be discharged by order
4 of the court if either of the following conditions are met:

5 (a) In case of a chemically dependent person committed on the
6 grounds of likelihood of infliction of physical harm upon himself,
7 herself, or another, the likelihood no longer exists; or further
8 treatment will not be likely to bring about significant improvement in
9 the person's condition, or treatment is no longer adequate or
10 appropriate.

11 (b) In case of a chemically dependent person committed on the
12 grounds of the need of treatment and incapacity, that the incapacity no
13 longer exists.

14 (9) The court shall inform the person whose commitment or
15 recommitment is sought of his or her right to contest the application,
16 be represented by counsel at every stage of any proceedings relating to
17 his or her commitment and recommitment, and have counsel appointed by
18 the court or provided by the court, if he or she wants the assistance
19 of counsel and is unable to obtain counsel. If the court believes that
20 the person needs the assistance of counsel, the court shall require, by
21 appointment if necessary, counsel for him or her regardless of his or
22 her wishes. The person shall, if he or she is financially able, bear
23 the costs of such legal service; otherwise such legal service shall be
24 at public expense. The person whose commitment or recommitment is
25 sought shall be informed of his or her right to be examined by a
26 licensed physician of his or her choice. If the person is unable to
27 obtain a licensed physician and requests examination by a physician,
28 the court shall employ a licensed physician.

29 (10) A person committed under this chapter may at any time seek to
30 be discharged from commitment by writ of habeas corpus in a court of
31 competent jurisdiction.

32 (11) The venue for proceedings under this section is the county in
33 which person to be committed resides or is present.

34 (12) When in the opinion of the professional person in charge of
35 the program providing involuntary treatment under this chapter, the
36 committed patient can be appropriately served by less restrictive
37 treatment before expiration of the period of commitment, then the less
38 restrictive care may be required as a condition for early release for
39 a period which, when added to the initial treatment period, does not

1 exceed the period of commitment. If the program designated to provide
2 the less restrictive treatment is other than the program providing the
3 initial involuntary treatment, the program so designated must agree in
4 writing to assume such responsibility. A copy of the conditions for
5 early release shall be given to the patient, the designated chemical
6 dependency specialist of original commitment, and the court of original
7 commitment. The program designated to provide less restrictive care
8 may modify the conditions for continued release when the modifications
9 are in the best interests of the patient. If the program providing
10 less restrictive care and the designated chemical dependency specialist
11 determine that a conditionally released patient is failing to adhere to
12 the terms and conditions of his or her release, or that substantial
13 deterioration in the patient's functioning has occurred, then the
14 designated chemical dependency specialist shall notify the court of
15 original commitment and request a hearing to be held no less than two
16 and no more than seven days after the date of the request to determine
17 whether or not the person should be returned to more restrictive care.
18 The designated chemical dependency specialist shall file a petition
19 with the court stating the facts substantiating the need for the
20 hearing along with the treatment recommendations. The patient shall
21 have the same rights with respect to notice, hearing, and counsel as
22 for the original involuntary treatment proceedings. The issues to be
23 determined at the hearing are whether the conditionally released
24 patient did or did not adhere to the terms and conditions of his or her
25 release to less restrictive care or that substantial deterioration of
26 the patient's functioning has occurred and whether the conditions of
27 release should be modified or the person should be returned to a more
28 restrictive program. The hearing may be waived by the patient and his
29 or her counsel and his or her guardian or conservator, if any, but may
30 not be waived unless all such persons agree to the waiver. Upon
31 waiver, the person may be returned for involuntary treatment or
32 continued on conditional release on the same or modified conditions.

33 **Sec. 28.** RCW 71.34.030 and 1985 c 354 s 3 are each amended to read
34 as follows:

35 (1) Any minor thirteen years or older may request and receive
36 outpatient treatment without the consent of the minor's parent provided
37 that the treatment provider provides notice to the minor's parent. The
38 treatment provider must provide notice within forty-eight hours of the

1 minor's request for treatment excluding Saturdays, Sundays, and
2 holidays. The notice shall contain the same information as required
3 under subsection (2)(c) of this section. Parental authorization is
4 required for outpatient treatment of a minor under the age of thirteen.

5 (2) When in the judgment of the professional person in charge of an
6 evaluation and treatment facility there is reason to believe that a
7 minor is in need of inpatient treatment because of a mental disorder,
8 and the facility provides the type of evaluation and treatment needed
9 by the minor, and it is not feasible to treat the minor in any less
10 restrictive setting or the minor's home, the minor may be admitted to
11 an evaluation and treatment facility in accordance with the following
12 requirements:

13 (a) A minor under thirteen years of age may only be admitted on the
14 application of the minor's parent.

15 (b) A minor (~~((thirteen years or older))~~) may be voluntarily admitted
16 by application of the parent without the minor's consent. (~~((Such~~
17 ~~application must be accompanied by the written consent, knowingly and~~
18 ~~voluntarily given, of the minor.))~~)

19 (c) A minor thirteen years or older may, with the concurrence of
20 the professional person in charge of an evaluation and treatment
21 facility, admit himself or herself without parental consent to the
22 evaluation and treatment facility, provided that notice is given by the
23 facility to the minor's parent in accordance with the following
24 requirements:

25 (i) Notice of the minor's admission shall be in the form most
26 likely to reach the parent within twenty-four hours of the minor's
27 voluntary admission and shall advise the parent that the minor has been
28 admitted to inpatient treatment; the location and telephone number of
29 the facility providing such treatment; and the name of a professional
30 person on the staff of the facility providing treatment who is
31 designated to discuss the minor's need for inpatient treatment with the
32 parent.

33 (ii) The minor shall be released to the parent at the parent's
34 request for release unless the facility files a petition with the
35 superior court of the county in which treatment is being provided
36 setting forth the basis for the facility's belief that the minor is in
37 need of inpatient treatment and that release would constitute a threat
38 to the minor's health or safety.

1 (iii) The petition shall be signed by the professional person in
2 charge of the facility or that person's designee.

3 (iv) The parent may apply to the court for separate counsel to
4 represent the parent if the parent cannot afford counsel.

5 (v) There shall be a hearing on the petition, which shall be held
6 within three judicial days from the filing of the petition.

7 (vi) The hearing shall be conducted by a judge, court commissioner,
8 or licensed attorney designated by the superior court as a hearing
9 officer for such hearing. The hearing may be held at the treatment
10 facility.

11 (vii) At such hearing, the facility must demonstrate by a
12 preponderance of the evidence presented at the hearing that the minor
13 is in need of inpatient treatment and that release would constitute a
14 threat to the minor's health or safety. The hearing shall not be
15 conducted using the rules of evidence, and the admission or exclusion
16 of evidence sought to be presented shall be within the exercise of
17 sound discretion by the judicial officer conducting the hearing.

18 (d) Written renewal of voluntary consent must be obtained from the
19 applicant (~~and the minor thirteen years or older~~) no less than once
20 every twelve months.

21 (e) The minor's need for continued inpatient treatments shall be
22 reviewed and documented no less than every one hundred eighty days.

23 (3) A notice of intent to leave shall result in the following:

24 (a) Any minor under the age of thirteen and any minor age thirteen
25 or older admitted by the parent under subsection (2)(b) of this section
26 must be discharged immediately upon written request of the parent.

27 (b) Any minor thirteen years or older voluntarily admitted by
28 himself or herself under subsection (2)(c) of this section may give
29 notice of intent to leave at any time. The notice need not follow any
30 specific form so long as it is written and the intent of the minor can
31 be discerned.

32 (c) The staff member receiving the notice shall date it
33 immediately, record its existence in the minor's clinical record, and
34 send copies of it to the minor's attorney, if any, the county-
35 designated mental health professional, and the parent.

36 (d) The professional person in charge of the evaluation and
37 treatment facility shall discharge the minor, thirteen years or older
38 admitted by himself or herself under subsection (2)(c) of this section,
39 from the facility within twenty-four hours after receipt of the minor's

1 notice of intent to leave, unless the county-designated mental health
2 professional files a petition for initial detention within the time
3 prescribed by this chapter.

4 NEW SECTION. **Sec. 29.** A new section is added to chapter 71.34 RCW
5 to read as follows:

6 Nothing in this chapter authorizes school district personnel to
7 refer minors to any evaluation and treatment program or mental health
8 professional without providing notice of the referral to the minor's
9 parent.

10 **Sec. 30.** RCW 71.34.050 and 1985 c 354 s 5 are each amended to read
11 as follows:

12 (1) When a county-designated mental health professional receives
13 information that a minor, thirteen years or older, as a result of a
14 mental disorder presents a likelihood of serious harm or is gravely
15 disabled, has investigated the specific facts alleged and of the
16 credibility of the person or persons providing the information, and has
17 determined that voluntary admission for inpatient treatment is not
18 possible, the county-designated mental health professional may take the
19 minor, or cause the minor to be taken, into custody and transported to
20 an evaluation and treatment facility providing inpatient treatment.

21 If the minor is not taken into custody for evaluation and
22 treatment, the parent who has custody of the minor may seek review of
23 that decision made by the county designated mental health professional
24 in court. The parent shall file notice with the court and provide a
25 copy of the county designated mental health professional's report or
26 notes.

27 (2) Within twelve hours of the minor's arrival at the evaluation
28 and treatment facility, the county-designated mental health
29 professional shall serve on the minor a copy of the petition for
30 initial detention, notice of initial detention, and statement of
31 rights. The county-designated mental health professional shall file
32 with the court on the next judicial day following the initial detention
33 the original petition for initial detention, notice of initial
34 detention, and statement of rights along with an affidavit of service.
35 The county-designated mental health professional shall commence service
36 of the petition for initial detention and notice of the initial

1 detention on the minor's parent and the minor's attorney as soon as
2 possible following the initial detention.

3 (3) At the time of initial detention, the county-designated mental
4 health professional shall advise the minor both orally and in writing
5 that if admitted to the evaluation and treatment facility for inpatient
6 treatment, a commitment hearing shall be held within seventy-two hours
7 of the minor's provisional acceptance to determine whether probable
8 cause exists to commit the minor for further mental health treatment.

9 The minor shall be advised that he or she has a right to
10 communicate immediately with an attorney and that he or she has a right
11 to have an attorney appointed to represent him or her before and at the
12 hearing if the minor is indigent.

13 (4) Whenever the county designated mental health professional
14 petitions for detention of a minor under this chapter, an evaluation
15 and treatment facility providing seventy-two hour evaluation and
16 treatment must immediately accept on a provisional basis the petition
17 and the person. Within twenty-four hours of the minor's arrival, the
18 facility must evaluate the minor's condition and either admit or
19 release the minor in accordance with this chapter.

20 (5) If a minor is not approved for admission by the inpatient
21 evaluation and treatment facility, the facility shall make such
22 recommendations and referrals for further care and treatment of the
23 minor as necessary.

24 **Sec. 31.** RCW 71.34.070 and 1985 c 354 s 7 are each amended to read
25 as follows:

26 (1) The professional person in charge of an evaluation and
27 treatment facility where a minor has been admitted involuntarily for
28 the initial seventy-two hour treatment period under this chapter may
29 petition to have a minor committed to an evaluation and treatment
30 facility for fourteen-day diagnosis, evaluation, and treatment.

31 If the professional person in charge of the treatment and
32 evaluation facility does not petition to have the minor committed, the
33 parent who has custody of the minor may seek review of that decision in
34 court. The parent shall file notice with the court and provide a copy
35 of the treatment and evaluation facility's report.

36 (2) A petition for commitment of a minor under this section shall
37 be filed with the superior court in the county where the minor is
38 residing or being detained.

1 (a) A petition for a fourteen-day commitment shall be signed either
2 by two physicians or by one physician and a mental health professional
3 who have examined the minor and shall contain the following:

4 (i) The name and address of the petitioner;

5 (ii) The name of the minor alleged to meet the criteria for
6 fourteen-day commitment;

7 (iii) The name, telephone number, and address if known of every
8 person believed by the petitioner to be legally responsible for the
9 minor;

10 (iv) A statement that the petitioner has examined the minor and
11 finds that the minor's condition meets required criteria for fourteen-
12 day commitment and the supporting facts therefor;

13 (v) A statement that the minor has been advised of the need for
14 voluntary treatment but has been unwilling or unable to consent to
15 necessary treatment;

16 (vi) A statement recommending the appropriate facility or
17 facilities to provide the necessary treatment; and

18 (vii) A statement concerning whether a less restrictive alternative
19 to inpatient treatment is in the best interests of the minor.

20 (b) A copy of the petition shall be personally delivered to the
21 minor by the petitioner or petitioner's designee. A copy of the
22 petition shall be sent to the minor's attorney and the minor's parent.

23 **Sec. 32.** RCW 71.34.130 and 1985 c 354 s 13 are each amended to
24 read as follows:

25 (1) Except as provided in subsection (2) of this section, a minor
26 receiving treatment under the provisions of this chapter and
27 responsible others shall be liable for the costs of treatment, care,
28 and transportation to the extent of available resources and ability to
29 pay.

30 (2) The minor's parent shall not be liable for payment for the
31 costs of treatment, care, and transportation unless the parent gave
32 consent to the treatment, care, and transportation. The parent's
33 insurance carrier is also not liable for payment and shall not be
34 billed for payment unless the parent has given consent.

35 (3) The secretary shall establish rules to implement this section
36 and to define income, resources, and exemptions to determine the
37 responsible person's or persons' ability to pay.

1 **Sec. 33.** RCW 9A.04.050 and 1975 1st ex.s. c 260 s 9A.04.050 are
2 each amended to read as follows:

3 Children under the age of eight years are incapable of committing
4 crime. Children of eight and under (~~twelve~~) ten years of age are
5 presumed to be incapable of committing crime, but this presumption may
6 be removed by proof that they have sufficient capacity to understand
7 the act or neglect, and to know that it was wrong. Whenever in legal
8 proceedings it becomes necessary to determine the age of a child, he or
9 she may be produced for inspection, to enable the court or jury to
10 determine the age thereby; and the court may also direct (~~his~~) the
11 child's examination by one or more physicians, whose opinion shall be
12 competent evidence upon the question of (~~his~~) the child's age.

13 NEW SECTION. **Sec. 34.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

--- END ---