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SENATE BILL 6448

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State of Washington

54th Legislature

1996 Regular Session

By Senators Smith, Kohl, Long, Hale, Winsley, Oke, Goings and Schow; by request of Governor Lowry and Attorney General

Read first time 01/15/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to juvenile offenders; amending RCW 5.60.060,  
2 13.40.010, 13.40.0357, 13.40.050, 13.40.060, 13.40.080, 13.40.130,  
3 13.40.160, 13.40.210, 13.40.045, 9.94A.040, 9.94A.060, 13.50.010,  
4 72.09.300, 13.40.120, 13.40.220, 13.40.110, and 9.94A.130; reenacting  
5 and amending RCW 13.04.030, 13.40.020, and 9.94A.360; adding new  
6 sections to chapter 13.40 RCW; adding a new section to chapter 9.94A  
7 RCW; creating a new section; repealing RCW 13.40.025, 13.40.027, and  
8 13.40.030; prescribing penalties; providing an effective date; and  
9 declaring an emergency.

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

11 **Sec. 1.** RCW 5.60.060 and 1995 c 240 s 1 are each amended to read  
12 as follows:

13 (1) A husband shall not be examined for or against his wife,  
14 without the consent of the wife, nor a wife for or against her husband  
15 without the consent of the husband; nor can either during marriage or  
16 afterward, be without the consent of the other, examined as to any  
17 communication made by one to the other during marriage. But this  
18 exception shall not apply to a civil action or proceeding by one  
19 against the other, nor to a criminal action or proceeding for a crime

1 committed by one against the other, nor to a criminal action or  
2 proceeding against a spouse if the marriage occurred subsequent to the  
3 filing of formal charges against the defendant, nor to a criminal  
4 action or proceeding for a crime committed by said husband or wife  
5 against any child of whom said husband or wife is the parent or  
6 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:  
7 PROVIDED, That the spouse of a person sought to be detained under  
8 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall  
9 be so informed by the court prior to being called as a witness.

10 (2) An attorney or counselor shall not, without the consent of his  
11 or her client, be examined as to any communication made by the client  
12 to him or her, or his or her advice given thereon in the course of  
13 professional employment.

14 (3) A parent shall not be examined as to a communication made by  
15 that parent's minor child to the child's attorney after the filing of  
16 juvenile offender or adult criminal charges, if the parent was present  
17 at the time of the communication. This privilege does not extend to  
18 communications made prior to filing of charges.

19 (4) A member of the clergy or a priest shall not, without the  
20 consent of a person making the confession, be examined as to any  
21 confession made to him or her in his or her professional character, in  
22 the course of discipline enjoined by the church to which he or she  
23 belongs.

24 ((+4)) (5) Subject to the limitations under RCW 70.96A.140 or  
25 71.05.250, a physician or surgeon or osteopathic physician or surgeon  
26 shall not, without the consent of his or her patient, be examined in a  
27 civil action as to any information acquired in attending such patient,  
28 which was necessary to enable him or her to prescribe or act for the  
29 patient, except as follows:

30 (a) In any judicial proceedings regarding a child's injury,  
31 neglect, or sexual abuse or the cause thereof; and

32 (b) Ninety days after filing an action for personal injuries or  
33 wrongful death, the claimant shall be deemed to waive the physician-  
34 patient privilege. Waiver of the physician-patient privilege for any  
35 one physician or condition constitutes a waiver of the privilege as to  
36 all physicians or conditions, subject to such limitations as a court  
37 may impose pursuant to court rules.

1       (~~(5)~~) (6) A public officer shall not be examined as a witness as  
2 to communications made to him or her in official confidence, when the  
3 public interest would suffer by the disclosure.

4       (~~(6)~~) (7)(a) A peer support group counselor shall not, without  
5 consent of the law enforcement officer making the communication, be  
6 compelled to testify about any communication made to the counselor by  
7 the officer while receiving counseling. The counselor must be  
8 designated as such by the sheriff, police chief, or chief of the  
9 Washington state patrol, prior to the incident that results in  
10 counseling. The privilege only applies when the communication was made  
11 to the counselor while acting in his or her capacity as a peer support  
12 group counselor. The privilege does not apply if the counselor was an  
13 initial responding officer, a witness, or a party to the incident which  
14 prompted the delivery of peer support group counseling services to the  
15 law enforcement officer.

16       (b) For purposes of this section, "peer support group counselor"  
17 means a:

18       (i) Law enforcement officer, or civilian employee of a law  
19 enforcement agency, who has received training to provide emotional and  
20 moral support and counseling to an officer who needs those services as  
21 a result of an incident in which the officer was involved while acting  
22 in his or her official capacity; or

23       (ii) Nonemployee counselor who has been designated by the sheriff,  
24 police chief, or chief of the Washington state patrol to provide  
25 emotional and moral support and counseling to an officer who needs  
26 those services as a result of an incident in which the officer was  
27 involved while acting in his or her official capacity.

28       **Sec. 2.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are  
29 each reenacted and amended to read as follows:

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

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

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

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

1 (d) To approve or disapprove out-of-home placement as provided in  
2 RCW 13.32A.170;

3 (e) Relating to juveniles alleged or found to have committed  
4 offenses, traffic infractions, or violations as provided in RCW  
5 13.40.020 through 13.40.230, unless:

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

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

10 (iii) The alleged offense or infraction is a traffic, fish,  
11 boating, or game offense or traffic infraction committed by a juvenile  
12 sixteen years of age or older and would, if committed by an adult, be  
13 tried or heard in a court of limited jurisdiction, in which instance  
14 the appropriate court of limited jurisdiction shall have jurisdiction  
15 over the alleged offense or infraction: PROVIDED, That if such an  
16 alleged offense or infraction and an alleged offense or infraction  
17 subject to juvenile court jurisdiction arise out of the same event or  
18 incident, the juvenile court may have jurisdiction of both matters:  
19 PROVIDED FURTHER, That the jurisdiction under this subsection does not  
20 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)  
21 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited  
22 jurisdiction which confine juveniles for an alleged offense or  
23 infraction may place juveniles in juvenile detention facilities under  
24 an agreement with the officials responsible for the administration of  
25 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

26 (iv) The juvenile is sixteen or seventeen years old and the alleged  
27 offense is: (A) A serious violent offense as defined in RCW 9.94A.030  
28 committed on or after June 13, 1994; or (B) a violent offense as  
29 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the  
30 juvenile has a criminal history consisting of: ~~((I))~~ One or more  
31 prior serious violent offenses; ~~((II))~~ two or more prior violent  
32 offenses; or ~~((III))~~ three or more of any combination of the  
33 following offenses: Any class A felony, any class B felony, vehicular  
34 assault, or manslaughter in the second degree, all of which must have  
35 been committed after the juvenile's thirteenth birthday and prosecuted  
36 separately. In such a case the adult criminal court shall have  
37 exclusive original jurisdiction.

38 If the juvenile challenges the state's determination of the  
39 juvenile's criminal history, the state may establish the offender's

1 criminal history by a preponderance of the evidence. If the criminal  
2 history consists of adjudications entered upon a plea of guilty, the  
3 state shall not bear a burden of establishing the knowing and  
4 voluntariness of the plea;

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

7 (g) Relating to termination of a diversion agreement under RCW  
8 13.40.080, including a proceeding in which the divertee has attained  
9 eighteen years of age;

10 (h) Relating to court validation of a voluntary consent to an out-  
11 of-home placement under chapter 13.34 RCW, by the parent or Indian  
12 custodian of an Indian child, except if the parent or Indian custodian  
13 and child are residents of or domiciled within the boundaries of a  
14 federally recognized Indian reservation over which the tribe exercises  
15 exclusive jurisdiction; and

16 (i) Relating to petitions to compel disclosure of information filed  
17 by the department of social and health services pursuant to RCW  
18 74.13.042.

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

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

27 (4) A parent, guardian, or custodian who has custody of any  
28 juvenile described in this section, if such parent, guardian, or  
29 custodian was served with a summons, shall be subject to the  
30 jurisdiction of the court for purposes of enforcing required attendance  
31 at juvenile court hearings.

32 **Sec. 3.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to  
33 read as follows:

34 (1) This chapter shall be known and cited as the Juvenile Justice  
35 Act of 1977.

36 (2) It is the intent of the legislature that a system capable of  
37 having primary responsibility for, being accountable for, and  
38 responding to the needs of youthful offenders, as defined by this

1 chapter, be established. It is the further intent of the legislature  
2 that youth, in turn, be held accountable for their offenses and that  
3 (~~both~~) communities, families, and the juvenile courts carry out their  
4 functions consistent with this intent. To effectuate these policies,  
5 the legislature declares the following to be equally important purposes  
6 of this chapter:

7 (a) Protect the citizenry from criminal behavior;

8 (b) Provide for determining whether accused juveniles have  
9 committed offenses as defined by this chapter;

10 (c) Make the juvenile offender accountable for his or her criminal  
11 behavior;

12 (d) Provide for punishment commensurate with the age, crime, and  
13 criminal history of the juvenile offender;

14 (e) Provide due process for juveniles alleged to have committed an  
15 offense;

16 (f) Promote equitable treatment of juveniles and their families  
17 without regard to race, ethnicity, gender, creed, or religion;

18 (g) Provide necessary treatment, supervision, and custody for  
19 juvenile offenders;

20 (~~(g)~~) (h) Provide for the handling of juvenile offenders by  
21 communities whenever consistent with public safety;

22 (~~(h)~~) (i) Provide for restitution to victims of crime;

23 (~~(i)~~) (j) Develop effective standards and goals for the  
24 operation, funding, and evaluation of all components of the juvenile  
25 justice system and related services at the state and local levels;

26 (~~and~~

27 ~~(j)~~) (k) Provide for a clear policy to determine what types of  
28 offenders shall receive punishment, treatment, or both, and to  
29 determine the jurisdictional limitations of the courts, institutions,  
30 and community services; and

31 (l) Provide for the active participation of the parents, guardian,  
32 or custodian of the juvenile in the juvenile justice process.

33 **Sec. 4.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are  
34 each reenacted and amended to read as follows:

35 For the purposes of this chapter:

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

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

1 (b) Manslaughter in the first degree; or

2 (c) Assault in the second degree, extortion in the first degree,  
3 child molestation in the second degree, kidnapping in the second  
4 degree, robbery in the second degree, residential burglary, or burglary  
5 in the second degree, where such offenses include the infliction of  
6 bodily harm upon another or where during the commission of or immediate  
7 withdrawal from such an offense the perpetrator is armed with a deadly  
8 weapon;

9 (2) "Community service" means compulsory service, without  
10 compensation, performed for the benefit of the community by the  
11 offender as punishment for committing an offense. Community service  
12 may be performed through public or private organizations or through  
13 work crews;

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

27 (a) Community-based sanctions;

28 (b) Community-based rehabilitation;

29 (c) Monitoring and reporting requirements;

30 (d) Posting of a probation bond (~~imposed pursuant to RCW~~  
31 ~~13.40.0357~~) as provided in RCW 13.40.054;

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

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

35 (b) Community service not to exceed one hundred fifty hours of  
36 service;

37 (5) "Community-based rehabilitation" means one or more of the  
38 following: Attendance of information classes; counseling, outpatient  
39 substance abuse treatment programs, outpatient mental health programs,

1 anger management classes, education or outpatient treatment programs to  
2 prevent animal cruelty, or other services; or attendance at school or  
3 other educational programs appropriate for the juvenile as determined  
4 by the school district. Placement in community-based rehabilitation  
5 programs is subject to available funds;

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

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

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

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

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

32 (b) The criminal complaint was diverted by a prosecutor pursuant to  
33 the provisions of this chapter on agreement of the respondent and after  
34 an advisement to the respondent that the criminal complaint would be  
35 considered as part of the respondent's criminal history. A  
36 successfully completed deferred adjudication shall not be considered  
37 part of the respondent's criminal history;

38 (10) "Department" means the department of social and health  
39 services;



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

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

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

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

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

34 (16) "Manifest injustice" means a disposition that would ~~((either))~~  
35 impose an excessive penalty on the juvenile, or would impose a serious,  
36 and clear danger to society in light of the purposes of this chapter or  
37 would fail to support the juvenile's need for sex offender treatment;

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

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

4 (a) Four misdemeanors;

5 (b) Two misdemeanors and one gross misdemeanor;

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

7 (d) Three gross misdemeanors.

8 For purposes of this definition, current violations shall be  
9 counted as misdemeanors;

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

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

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

26 (22) "Secretary" means the secretary of the department of social  
27 and health services. "Assistant secretary" means the assistant  
28 secretary for juvenile rehabilitation for the department;

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

33 (24) "Sex offense" means an offense defined as a sex offense in RCW  
34 9.94A.030;

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

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

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

7 (28) "Violent offense" means a violent offense as defined in RCW  
8 9.94A.030;

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

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

20 **Sec. 5.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to read  
21 as follows:

22 **SCHEDULE A**

23 **DESCRIPTION AND OFFENSE CATEGORY**

24	JUVENILE		JUVENILE DISPOSITION
25	DISPOSITION		CATEGORY FOR ATTEMPT,
26	OFFENSE		BAILJUMP, CONSPIRACY,
27	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
28	.....		

29 **Arson and Malicious Mischief**

30	A	Arson 1 (9A.48.020)	B+
31	B	Arson 2 (9A.48.030)	C
32	C	Reckless Burning 1 (9A.48.040)	D
33	D	Reckless Burning 2 (9A.48.050)	E
34	B	Malicious Mischief 1 (9A.48.070)	C
35	C	Malicious Mischief 2 (9A.48.080)	D

1	D	Malicious Mischief 3 (<\$50 is	
2		E class) (9A.48.090)	E
3	E	Tampering with Fire Alarm	
4		Apparatus (9.40.100)	E
5	A	Possession of Incendiary Device	
6		(9.40.120)	B+
7		<b>Assault and Other Crimes</b>	
8		<b>Involving Physical Harm</b>	
9	A	Assault 1 (9A.36.011)	B+
10	B+	Assault 2 (9A.36.021)	C+
11	C+	Assault 3 (9A.36.031)	D+
12	D+	Assault 4 (9A.36.041)	E
13	<u>B+</u>	<u>Reckless Endangerment 1</u>	<u>C+</u>
14	D+	Reckless Endangerment <u>2</u>	
15		(9A.36.050)	E
16	C+	Promoting Suicide Attempt	
17		(9A.36.060)	D+
18	D+	Coercion (9A.36.070)	E
19	C+	Custodial Assault (9A.36.100)	D+
20		<b>Burglary and Trespass</b>	
21	B+	Burglary 1 (9A.52.020)	C+
22	B	Burglary 2 (9A.52.030)	C
23	D	Burglary Tools (Possession of)	
24		(9A.52.060)	E
25	D	Criminal Trespass 1 (9A.52.070)	E
26	E	Criminal Trespass 2 (9A.52.080)	E
27	D	Vehicle Prowling (9A.52.100)	E
28		<b>Drugs</b>	
29	E	Possession/Consumption of Alcohol	
30		(66.44.270)	E
31	C	Illegally Obtaining Legend Drug	
32		(69.41.020)	D
33	C+	Sale, Delivery, Possession of Legend	
34		Drug with Intent to Sell	
35		(69.41.030)	D+
36	E	Possession of Legend Drug	
37		(69.41.030)	E

1	B+	Violation of Uniform Controlled	
2		Substances Act - Narcotic Sale	
3		(69.50.401(a)(1)(i))	B+
4	C	Violation of Uniform Controlled	
5		Substances Act - Nonnarcotic Sale	
6		(69.50.401(a)(1)(ii))	C
7	E	Possession of Marihuana <40 grams	
8		(69.50.401(e))	E
9	C	Fraudulently Obtaining Controlled	
10		Substance (69.50.403)	C
11	C+	Sale of Controlled Substance	
12		for Profit (69.50.410)	C+
13	E	Unlawful Inhalation (9.47A.020)	E
14	B	Violation of Uniform Controlled	
15		Substances Act - Narcotic	
16		Counterfeit Substances	
17		(69.50.401(b)(1)(i))	B
18	C	Violation of Uniform Controlled	
19		Substances Act - Nonnarcotic	
20		Counterfeit Substances	
21		(69.50.401(b)(1) (ii), (iii), (iv))	C
22	C	Violation of Uniform Controlled	
23		Substances Act - Possession of a	
24		Controlled Substance	
25		(69.50.401(d))	C
26	C	Violation of Uniform Controlled	
27		Substances Act - Possession of a	
28		Controlled Substance	
29		(69.50.401(c))	C
30		<b>Firearms and Weapons</b>	
31	E	Carrying Loaded Pistol Without	
32		Permit (9.41.050)	E
33	C	Possession of Firearms by	
34		Minor (<18) (9.41.040(1)((e)))	
35		(b)(iv))	C
36	D+	Possession of Dangerous Weapon	
37		(9.41.250)	E

1	D	Intimidating Another Person by use	
2		of Weapon (9A.41.270)	E
3		<b>Homicide</b>	
4	A+	Murder 1 (9A.32.030)	A
5	A+	Murder 2 (9A.32.050)	B+
6	B+	Manslaughter 1 (9A.32.060)	C+
7	C+	Manslaughter 2 (9A.32.070)	D+
8	B+	Vehicular Homicide (46.61.520)	C+
9		<b>Kidnapping</b>	
10	A	Kidnap 1 (9A.40.020)	B+
11	B+	Kidnap 2 (9A.40.030)	C+
12	C+	Unlawful Imprisonment	
13		(9A.40.040)	D+
14		<b>Obstructing Governmental Operation</b>	
15	E	Obstructing a Law Enforcement Officer	
16		(9A.76.020)	E
17	E	Resisting Arrest (9A.76.040)	E
18	B	Introducing Contraband 1	
19		(9A.76.140)	C
20	C	Introducing Contraband 2	
21		(9A.76.150)	D
22	E	Introducing Contraband 3	
23		(9A.76.160)	E
24	B+	Intimidating a Public Servant	
25		(9A.76.180)	C+
26	B+	Intimidating a Witness	
27		(9A.72.110)	C+
28		<b>Public Disturbance</b>	
29	C+	Riot with Weapon (9A.84.010)	D+
30	D+	Riot Without Weapon	
31		(9A.84.010)	E
32	E	Failure to Disperse (9A.84.020)	E
33	E	Disorderly Conduct (9A.84.030)	E
34		<b>Sex Crimes</b>	
35	A	Rape 1 (9A.44.040)	B+
36	A-	Rape 2 (9A.44.050)	B+
37	C+	Rape 3 (9A.44.060)	D+

1	A-	Rape of a Child 1_ (9A.44.073)	B+
2	B	Rape of a Child 2 (9A.44.076)	C+
3	B	Incest 1 (9A.64.020(1))	C
4	C	Incest 2 (9A.64.020(2))	D
5	D+	Indecent Exposure	
6		(Victim <14) (9A.88.010)	E
7	E	Indecent Exposure	
8		(Victim 14 or over) (9A.88.010)	E
9	B+	Promoting Prostitution 1	
10		(9A.88.070)	C+
11	C+	Promoting Prostitution 2	
12		(9A.88.080)	D+
13	E	O & A (Prostitution) (9A.88.030)	E
14	B+	Indecent Liberties (9A.44.100)	C+
15	B+	Child Molestation 1 <sub>2</sub> (9A.44.083)	C+
16	C+	Child Molestation 2 (9A.44.086)	C
17	<u>C</u>	<u>Failure to Register</u>	
18		<u>(For Class A Felony)</u>	<u>D</u>
19	<u>D</u>	<u>Failure to Register</u>	
20		<u>(For Class B Felony or Less)</u>	<u>E</u>
21		<b>Theft, Robbery, Extortion, and Forgery</b>	
22	B	Theft 1 (9A.56.030)	C
23	C	Theft 2 (9A.56.040)	D
24	D	Theft 3 (9A.56.050)	E
25	<u>B</u>	<u>Theft of a Firearm</u>	<u>C</u>
26	B	Theft of Livestock (9A.56.080)	C
27	C	Forgery (9A.60.020)	D
28	A	Robbery 1 (9A.56.200)	B+
29	B+	Robbery 2 (9A.56.210)	C+
30	B+	Extortion 1 (9A.56.120)	C+
31	C+	Extortion 2 (9A.56.130)	D+
32	B	Possession of Stolen Property 1	
33		(9A.56.150)	C
34	C	Possession of Stolen Property 2	
35		(9A.56.160)	D
36	D	Possession of Stolen Property 3	
37		(9A.56.170)	E

1	C	Taking Motor Vehicle Without	
2		Owner's Permission (9A.56.070)	D
3		<b>Motor Vehicle Related Crimes</b>	
4	E	Driving Without a License	
5		(46.20.021)	E
6	C	Hit and Run - Injury	
7		(46.52.020(4))	D
8	D	Hit and Run-Attended	
9		(46.52.020(5))	E
10	E	Hit and Run-Unattended	
11		(46.52.010)	E
12	C	Vehicular Assault (46.61.522)	D
13	C	Attempting to Elude Pursuing	
14		Police Vehicle (46.61.024)	D
15	E	Reckless Driving (46.61.500)	E
16	D	Driving While Under the Influence	
17		(46.61.502 and 46.61.504)	E
18	D	Vehicle Prowling (9A.52.100)	E
19	C	Taking Motor Vehicle Without	
20		Owner's Permission (9A.56.070)	D
21		<b>Other</b>	
22	B	Bomb Threat (9.61.160)	C
23	C	Escape 1(( <del>k</del> )) <u>2</u> (9A.76.110)	C
24	C	Escape 2(( <del>k</del> )) <u>2</u> (9A.76.120)	C
25	D	Escape 3 (9A.76.130)	E
26	<u>C</u>	<u>Stalking (Repeat)</u>	<u>D</u>
27	<u>D</u>	<u>Stalking (1st Time)</u>	<u>E</u>
28	E	Obscene, Harassing, Etc.,	
29		Phone Calls (9.61.230)	E
30	A	Other Offense Equivalent to an	
31		Adult Class A Felony	B+
32	B	Other Offense Equivalent to an	
33		Adult Class B Felony	C
34	C	Other Offense Equivalent to an	
35		Adult Class C Felony	D
36	D	Other Offense Equivalent to an	
37		Adult Gross Misdemeanor	E



1 E Other Offense Equivalent to an  
 2 Adult Misdemeanor E  
 3 V Violation of Order of Restitution,  
 4 Community Supervision, or  
 5 Confinement (13.40.200)((3)) † V

6 1Rape of a Child 1 requires a mandatory minimum sentence of 52-65 weeks  
 7 confinement

8 2Child Molestation 1 requires a mandatory minimum sentence of 21-28  
 9 weeks confinement

10 ¶ ¶\ Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C  
 11 offenses and the standard range is established as follows:

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

14 2nd escape or attempted escape during 12-month period - 8 weeks  
 15 confinement

16 3rd and subsequent escape or attempted escape during 12-month  
 17 period - 12 weeks confinement

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

20 **SCHEDULE B**

21 **PRIOR OFFENSE INCREASE FACTOR**

22 For use with all CURRENT OFFENSES occurring on or after July 1,  
 23 1989.

24 **TIME SPAN**

25	OFFENSE	0-12	13-24	25 Months
26	CATEGORY	Months	Months	or More
27	.....			
28	A+	.9	.9	.9
29	A	.9	.8	.6
30	A-	.9	.8	.5
31	B+	.9	.7	.4
32	B	.9	.6	.3
33	C+	.6	.3	.2
34	C	.5	.2	.2
35	D+	.3	.2	.1
36	D	.2	.1	.1

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

6 **SCHEDULE C**  
7 **CURRENT OFFENSE POINTS**

8 For use with all CURRENT OFFENSES occurring on or after July 1,  
9 1989.

10 **AGE**

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

24 **JUVENILE SENTENCING STANDARDS**  
25 **SCHEDULE D-1**

26 This schedule may only be used for minor/first offenders. After the  
27 determination is made that a youth is a minor/first offender, the court  
28 has the discretion to select sentencing option A(~~(, B, or C)~~) or B.

29 **MINOR/FIRST OFFENDER**

30 **OPTION A**  
31 **STANDARD RANGE**

Points	Community		
	Supervision	Service Hours	Fine
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10

1 30-39 — 0-3 months — and/or 8-24 — and/or 0-\$25  
2 40-49 — 3-6 months — and/or 16-32 — and/or 0-\$25  
3 50-59 — 3-6 months — and/or 24-40 — and/or 0-\$25  
4 60-69 — 6-9 months — and/or 32-48 — and/or 0-\$50  
5 70-79 — 6-9 months — and/or 40-56 — and/or 0-\$50  
6 80-89 — 9-12 months — and/or 48-64 — and/or 10-\$100  
7 90-109 — 9-12 months — and/or 56-72 — and/or 10-\$100))  
8 1-109 0-12 months and/or 0-150 and/or 0-\$100

9 ((OR

10 **OPTION B**

11 **STATUTORY OPTION**

12 ~~0-12 Months Community Supervision~~  
13 ~~0-150 Hours Community Service~~  
14 ~~0-100 Fine))~~  
15 Posting of a Probation Bond

16 ~~((A term of community supervision with a maximum of 150 hours, \$100.00~~  
17 ~~fine, and 12 months supervision.))~~

18 OR

19 **OPTION ((C)) B**

20 **MANIFEST INJUSTICE**

21 When a term of community supervision would effectuate a manifest  
22 injustice, another disposition may be imposed. When a judge imposes a  
23 sentence of confinement exceeding 30 days, the court shall sentence the  
24 juvenile to a maximum term and the provisions of ((RCW 13.40.030(2)))  
25 section 14 of this act shall be used to determine the range.

26 **JUVENILE SENTENCING STANDARDS**

27 **SCHEDULE D-2**

28 This schedule may only be used for middle offenders. After the  
29 determination is made that a youth is a middle offender, the court has  
30 the discretion to select sentencing option A, B, or C.

31 **MIDDLE OFFENDER**

32 **OPTION A**

33 **STANDARD RANGE**

	Community				Confinement
	Community	Service			
	Points	Supervision	Hours	Fine	Days Weeks
1	.....				
2					
3					
4					
5	<del>(1-9</del>	<del>0-3 months</del>	<del>and/or 0-8</del>	<del>and/or 0-\$10</del>	<del>and/or 0</del>
6	<del>10-19</del>	<del>0-3 months</del>	<del>and/or 0-8</del>	<del>and/or 0-\$10</del>	<del>and/or 0</del>
7	<del>20-29</del>	<del>0-3 months</del>	<del>and/or 0-16</del>	<del>and/or 0-\$10</del>	<del>and/or 0</del>
8	<del>30-39</del>	<del>0-3 months</del>	<del>and/or 8-24</del>	<del>and/or 0-\$25</del>	<del>and/or 2-4</del>
9	<del>40-49</del>	<del>3-6 months</del>	<del>and/or 16-32</del>	<del>and/or 0-\$25</del>	<del>and/or 2-4</del>
10	<del>50-59</del>	<del>3-6 months</del>	<del>and/or 24-40</del>	<del>and/or 0-\$25</del>	<del>and/or 5-10</del>
11	<del>60-69</del>	<del>6-9 months</del>	<del>and/or 32-48</del>	<del>and/or 0-\$50</del>	<del>and/or 5-10</del>
12	<del>70-79</del>	<del>6-9 months</del>	<del>and/or 40-56</del>	<del>and/or 0-\$50</del>	<del>and/or 10-20</del>
13	<del>80-89</del>	<del>9-12 months</del>	<del>and/or 48-64</del>	<del>and/or 0-\$100</del>	<del>and/or 10-20</del>
14	<del>90-109</del>	<del>9-12 months</del>	<del>and/or 56-72</del>	<del>and/or 0-\$100</del>	<del>and/or 15-30))</del>
15	<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>
16	110-129				8-12
17	130-149				13-16
18	150-199				21-28
19	200-249				30-40
20	250-299				52-65
21	300-374				80-100
22	375+				103-129

23 Middle offenders with 110 points or more do not have to be committed to  
 24 the department. They may be assigned community supervision under option  
 25 B.

26 For all determinate dispositions of up to 30 days confinement for  
 27 middle offenders with fewer than 110 points, the court shall state its  
 28 reasons in writing why confinement is used.

29 All A+ offenses 180-224 weeks

30 OR

31  
 32 OPTION B

33 STATUTORY OPTION

34 OFFENDERS WITH 110 POINTS OR MORE

- 35 0-12 Months Community Supervision
- 36 0-150 Hours Community Service
- 37 0-100 Fine
- 38 Posting of a Probation Bond

1 If the offender has (~~(less than)~~) 110 points or more, the court may  
2 impose (~~(a determinate disposition of community supervision and/or up~~  
3 ~~to 30 days confinement; in which case, if confinement has been imposed,~~  
4 ~~the court shall state either aggravating or mitigating factors as set~~  
5 ~~forth in RCW 13.40.150.~~

6 If the middle offender has 110 points or more, the court may impose  
7 a disposition under option A and may suspend the disposition on the  
8 condition that the offender serve up to thirty days of confinement and  
9 follow all conditions of community supervision. If the offender fails  
10 to comply with the terms of community supervision, the court may impose  
11 sanctions pursuant to RCW 13.40.200 or may revoke the suspended  
12 disposition and order execution of the disposition. If the court  
13 imposes confinement for offenders with 110 points or more, the court  
14 shall state either aggravating or mitigating factors set forth in RCW  
15 13.40.150)) an option B disposition as provided in RCW 13.40.160(4)(b).

16 OR

17  
18 **OPTION C**

19 **MANIFEST INJUSTICE**

20 **ALL MIDDLE OFFENDERS**

21 If the court determines that a disposition under A or B would  
22 effectuate a manifest injustice, the court shall sentence the juvenile  
23 to a maximum term and the provisions of (~~(RCW 13.40.030(2))~~) section 14  
24 of this act shall be used to determine the range.

25 **JUVENILE SENTENCING STANDARDS**

26 **SCHEDULE D-3**

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

1 **SERIOUS OFFENDER**

2 **OPTION A**

3 **STANDARD RANGE**

4 Points Institution Time

5 .....

6 0-129 8-12 weeks

7 130-149 13-16 weeks

8 150-199 21-28 weeks

9 200-249 30-40 weeks

10 250-299 52-65 weeks

11 300-374 80-100 weeks

12 375+ 103-129 weeks

13 All A+ Offenses 180-224 weeks

14 **OR**

15 **OPTION B**

16 **MANIFEST INJUSTICE**

17  
18 A disposition outside the standard range shall be determined and shall  
19 be comprised of confinement or community supervision including posting  
20 a probation bond or a combination thereof. When a judge finds a  
21 manifest injustice and imposes a sentence of confinement exceeding 30  
22 days, the court shall sentence the juvenile to a maximum term, and the  
23 provisions of ((RCW 13.40.030(2))) section 14 of this act shall be used  
24 to determine the range.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.40 RCW  
26 to read as follows:

27 The secretary shall submit a report on security at juvenile  
28 facilities during the preceding year. The report shall include the  
29 number of escapes from each juvenile facility, the most serious offense  
30 for which each escapee had been confined, the number and nature of  
31 offenses found to have been committed by juveniles while on escape  
32 status, the number of authorized leaves granted, the number of failures  
33 to comply with leave requirements, the number and nature of offenses  
34 committed while on leave, and the number and nature of offenses  
35 committed by juveniles while in the community on minimum security

1 status; to the extent this information is available to the secretary.  
2 The department shall include security status definitions in the report  
3 it submits to the legislature pursuant to this section. The report  
4 shall be submitted no later than December 15th of each year.

5 **Sec. 7.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to read  
6 as follows:

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

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

12 (b) A detention hearing, a community supervision modification or  
13 termination of diversion petition, or a parole modification petition  
14 shall be held within seventy-two hours, Saturdays, Sundays, and  
15 holidays excluded, from the time of filing the information or petition,  
16 to determine whether continued detention is necessary under RCW  
17 13.40.040.

18 (2) Notice of the detention hearing, stating the time, place, and  
19 purpose of the hearing, (~~and~~) stating the right to counsel, and  
20 commanding them to appear, shall be given to the parent, guardian, or  
21 custodian if such person can be found and shall also be given to the  
22 juvenile if over twelve years of age. The parent, guardian, or  
23 custodian must attend the detention hearing.

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

27 (4) The court shall, based upon the allegations in the information,  
28 determine whether the case is properly before it or whether the case  
29 should be treated as a diversion case under RCW 13.40.080. If the case  
30 is not properly before the court the juvenile shall be ordered  
31 released.

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

37 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~  
38 ~~hereafter amended,~~) the court shall impose the most appropriate of the

1 following conditions or, if necessary, any combination of the following  
2 conditions:

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

5 (b) Place restrictions on the travel of the juvenile during the  
6 period of release;

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

9 (d) Impose any condition other than detention deemed reasonably  
10 necessary to assure appearance as required;

11 (e) Require that the juvenile return to detention during specified  
12 hours; or

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

15 (7) If the parent, guardian, or custodian of the juvenile in  
16 detention is available, the court shall consult with them prior to a  
17 determination to further detain or release the juvenile or treat the  
18 case as a diversion case under RCW 13.40.080.

19 (8) If the person notified as provided in this section fails  
20 without reasonable cause to appear, the person may be found in contempt  
21 of court, pursuant to chapter 7.21 RCW.

22 **Sec. 8.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read  
23 as follows:

24 (1) All actions under this chapter shall be commenced and tried in  
25 the county where any element of the offense was committed except as  
26 otherwise specially provided by statute. In cases in which diversion  
27 is provided by statute, venue is in the county in which the juvenile  
28 resides or in the county in which any element of the offense was  
29 committed.

30 (2) For juveniles whose standard range disposition would include  
31 confinement in excess of thirty days, the case and copies of all legal  
32 and social documents pertaining thereto may in the discretion of the  
33 court be transferred to the county where the juvenile resides for a  
34 disposition hearing. All costs and arrangements for care and  
35 transportation of the juvenile in custody shall be the responsibility  
36 of the receiving county as of the date of the transfer of the juvenile  
37 to such county, unless the counties otherwise agree.



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

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

10 **Sec. 9.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended to  
11 read as follows:

12 (1) A diversion agreement shall be a contract between a juvenile  
13 accused of an offense and a diversionary unit whereby the juvenile  
14 agrees to fulfill certain conditions in lieu of prosecution. Such  
15 agreements may be entered into only after the prosecutor, or probation  
16 counselor pursuant to this chapter, has determined that probable cause  
17 exists to believe that a crime has been committed and that the juvenile  
18 committed it. Such agreements shall be entered into as expeditiously  
19 as possible.

20 (2) A diversion agreement shall be limited to one or more of the  
21 following:

22 (a) Community service not to exceed one hundred fifty hours, not to  
23 be performed during school hours if the juvenile is attending school;

24 (b) Restitution limited to the amount of actual loss incurred by  
25 the victim, and to an amount the juvenile has the means or potential  
26 means to pay;

27 (c) Attendance at (~~up to ten hours of~~) counseling and/or (~~up to~~  
28 ~~twenty hours of~~) educational or informational sessions at a community  
29 agency for a specified period of time as determined by the diversion  
30 unit. The educational or informational sessions may include sessions  
31 relating to respect for self, others, and authority; victim awareness;  
32 accountability; self-worth; responsibility; work ethics; good  
33 citizenship; and life skills. For purposes of this section, "community  
34 agency" may also mean a community-based nonprofit organization, if  
35 approved by the diversion unit. The state shall not be liable for  
36 costs resulting from the diversionary unit exercising the option to  
37 permit diversion agreements to mandate attendance at (~~up to ten hours~~

1 ef)) counseling and/or (~~up to twenty hours of~~) educational or  
2 informational sessions;

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

9 (e) Requirements to remain during specified hours at home, school,  
10 or work, and restrictions on leaving or entering specified geographical  
11 areas; and

12 (f) Participation in adult mentoring programs and community  
13 monitoring programs.

14 (3) In assessing periods of community service to be performed and  
15 restitution to be paid by a juvenile who has entered into a diversion  
16 agreement, the court officer to whom this task is assigned shall  
17 consult with the juvenile's custodial parent or parents or guardian and  
18 victims who have contacted the diversionary unit and, to the extent  
19 possible, involve members of the community. Such members of the  
20 community shall meet with the juvenile and advise the court officer as  
21 to the terms of the diversion agreement and shall supervise the  
22 juvenile in carrying out its terms.

23 (4) A diversion agreement may not exceed a period of six months and  
24 may include a period extending beyond the eighteenth birthday of the  
25 divertee. Any restitution assessed during its term may not exceed an  
26 amount which the juvenile could be reasonably expected to pay during  
27 this period. If additional time is necessary for the juvenile to  
28 complete restitution to the victim, the time period limitations of this  
29 subsection may be extended by an additional six months.

30 (5) The juvenile shall retain the right to be referred to the court  
31 at any time prior to the signing of the diversion agreement.

32 (6) Divertees and potential divertees shall be afforded due process  
33 in all contacts with a diversionary unit regardless of whether the  
34 juveniles are accepted for diversion or whether the diversion program  
35 is successfully completed. Such due process shall include, but not be  
36 limited to, the following:

37 (a) A written diversion agreement shall be executed stating all  
38 conditions in clearly understandable language;

1 (b) Violation of the terms of the agreement shall be the only  
2 grounds for termination;

3 (c) No divertee may be terminated from a diversion program without  
4 being given a court hearing, which hearing shall be preceded by:

5 (i) Written notice of alleged violations of the conditions of the  
6 diversion program; and

7 (ii) Disclosure of all evidence to be offered against the divertee;

8 (d) The hearing shall be conducted by the juvenile court and shall  
9 include:

10 (i) Opportunity to be heard in person and to present evidence;

11 (ii) The right to confront and cross-examine all adverse witnesses;

12 (iii) A written statement by the court as to the evidence relied on  
13 and the reasons for termination, should that be the decision; and

14 (iv) Demonstration by evidence that the divertee has substantially  
15 violated the terms of his or her diversion agreement.

16 (e) The prosecutor may file an information on the offense for which  
17 the divertee was diverted:

18 (i) In juvenile court if the divertee is under eighteen years of  
19 age; or

20 (ii) In superior court or the appropriate court of limited  
21 jurisdiction if the divertee is eighteen years of age or older.

22 (7) The diversion unit shall, subject to available funds, be  
23 responsible for providing interpreters when juveniles need interpreters  
24 to effectively communicate during diversion unit hearings or  
25 negotiations.

26 (8) The diversion unit shall be responsible for advising a divertee  
27 of his or her rights as provided in this chapter.

28 (9) The diversion unit may refer a juvenile to community-based  
29 counseling or treatment programs.

30 (10) The right to counsel shall inure prior to the initial  
31 interview for purposes of advising the juvenile as to whether he or she  
32 desires to participate in the diversion process or to appear in the  
33 juvenile court. The juvenile may be represented by counsel at any  
34 critical stage of the diversion process, including intake interviews  
35 and termination hearings. The juvenile shall be fully advised at the  
36 intake of his or her right to an attorney and of the relevant services  
37 an attorney can provide. For the purpose of this section, intake  
38 interviews mean all interviews regarding the diversion agreement  
39 process.

1 The juvenile shall be advised that a diversion agreement shall  
2 constitute a part of the juvenile's criminal history as defined by RCW  
3 13.40.020(9). A signed acknowledgment of such advisement shall be  
4 obtained from the juvenile, and the document shall be maintained by the  
5 diversionary unit together with the diversion agreement, and a copy of  
6 both documents shall be delivered to the prosecutor if requested by the  
7 prosecutor. The supreme court shall promulgate rules setting forth the  
8 content of such advisement in simple language.

9 (11) When a juvenile enters into a diversion agreement, the  
10 juvenile court may receive only the following information for  
11 dispositional purposes:

- 12 (a) The fact that a charge or charges were made;
- 13 (b) The fact that a diversion agreement was entered into;
- 14 (c) The juvenile's obligations under such agreement;
- 15 (d) Whether the alleged offender performed his or her obligations  
16 under such agreement; and
- 17 (e) The facts of the alleged offense.

18 (12) A diversionary unit may refuse to enter into a diversion  
19 agreement with a juvenile. When a diversionary unit refuses to enter  
20 a diversion agreement with a juvenile, it shall immediately refer such  
21 juvenile to the court for action and shall forward to the court the  
22 criminal complaint and a detailed statement of its reasons for refusing  
23 to enter into a diversion agreement. The diversionary unit shall also  
24 immediately refer the case to the prosecuting attorney for action if  
25 such juvenile violates the terms of the diversion agreement.

26 (13) A diversionary unit may, in instances where it determines that  
27 the act or omission of an act for which a juvenile has been referred to  
28 it involved no victim, or where it determines that the juvenile  
29 referred to it has no prior criminal history and is alleged to have  
30 committed an illegal act involving no threat of or instance of actual  
31 physical harm and involving not more than fifty dollars in property  
32 loss or damage and that there is no loss outstanding to the person or  
33 firm suffering such damage or loss, counsel and release or release such  
34 a juvenile without entering into a diversion agreement. A diversion  
35 unit's authority to counsel and release a juvenile under this  
36 subsection shall include the authority to refer the juvenile to  
37 community-based counseling or treatment programs. Any juvenile  
38 released under this subsection shall be advised that the act or  
39 omission of any act for which he or she had been referred shall

1 constitute a part of the juvenile's criminal history as defined by RCW  
2 13.40.020(9). A signed acknowledgment of such advisement shall be  
3 obtained from the juvenile, and the document shall be maintained by the  
4 unit, and a copy of the document shall be delivered to the prosecutor  
5 if requested by the prosecutor. The supreme court shall promulgate  
6 rules setting forth the content of such advisement in simple language.  
7 A juvenile determined to be eligible by a diversionary unit for release  
8 as provided in this subsection shall retain the same right to counsel  
9 and right to have his or her case referred to the court for formal  
10 action as any other juvenile referred to the unit.

11 (14) A diversion unit may supervise the fulfillment of a diversion  
12 agreement entered into before the juvenile's eighteenth birthday and  
13 which includes a period extending beyond the diverttee's eighteenth  
14 birthday.

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

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

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

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

36 (2) If the respondent pleads guilty, the court may proceed with  
37 disposition or may continue the case for a dispositional hearing. If  
38 the respondent denies guilt, an adjudicatory hearing date shall be set.

1 The court shall notify the parent, guardian, or custodian who has  
2 custody of any juvenile described in the charging document of the date,  
3 time, and place of the dispositional or adjudicatory hearing, and the  
4 parent, guardian, or custodian must attend.

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

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

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

13 (6) If the respondent is found guilty the court may immediately  
14 proceed to disposition or may continue the case for a dispositional  
15 hearing. Notice of the time and place of the continued hearing may be  
16 given in open court. If notice is not given in open court to a party,  
17 the party and the parent, guardian, or custodian who has custody of the  
18 juvenile shall be notified by mail of the time and place of the  
19 continued hearings. The notice shall command the parent, guardian, or  
20 custodian to attend the 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 person notified as provided in this section fails  
32 without reasonable cause to appear, the person may be found in contempt  
33 of court, pursuant to chapter 7.21 RCW.

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

36 (1) When a middle offender with one hundred ten points or more is  
37 found to have committed an offense that is not a violent or sex  
38 offense, the court, on its own motion or the motion of the state or the

1 respondent if the evidence shows that the offender may be chemically  
2 dependent, may order an examination by a youth chemical dependency  
3 counselor from a chemical dependency treatment facility approved under  
4 chapter 70.96A RCW to determine if the youth is chemically dependent  
5 and amenable to treatment.

6 (2) The report of the examination shall include at a minimum the  
7 following: The respondent's version of the facts and the official  
8 version of the facts, the respondent's offense history, an assessment  
9 of drug-alcohol problems and previous treatment attempts, the  
10 respondent's social, educational, and employment situation, and other  
11 evaluation measures used. The report shall set forth the sources of  
12 the examiner's information.

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

17 (a) Whether inpatient and/or outpatient treatment is recommended;

18 (b) Availability of appropriate treatment;

19 (c) Recommendations regarding living conditions, lifestyle  
20 requirements, and participation by family members, legal guardians, or  
21 others;

22 (d) Anticipated length of treatment;

23 (e) Recommended crime-related prohibitions; and

24 (f) Whether the respondent is amenable to treatment.

25 (4) The court on its own motion may order, or on a motion by the  
26 state shall order, a second examination regarding the offender's  
27 amenability to treatment. The evaluator shall be selected by the party  
28 making the motion. The defendant shall pay the cost of any examination  
29 ordered under this subsection (4) or subsection (1) of this section  
30 unless the court finds that the offender is indigent and no third party  
31 insurance coverage is available, in which case the state shall pay the  
32 cost.

33 (5)(a) After receipt of reports of the examination, the court shall  
34 then consider whether the offender and the community will benefit from  
35 use of this chemical dependent disposition alternative and consider the  
36 victim's opinion whether the offender should receive a treatment  
37 disposition under this section.

38 (b) If the court determines that this chemical dependent  
39 disposition alternative is appropriate, then the court shall impose the

1 standard range for the offense, suspend execution of the disposition,  
2 and place the offender on community supervision for up to one year. As  
3 a condition of the suspended disposition, the court shall require the  
4 offender to undergo available outpatient drug/alcohol treatment and/or  
5 inpatient drug/alcohol treatment. For purposes of this section, the  
6 sum of confinement time and inpatient treatment may not exceed ninety  
7 days. As a condition of the suspended disposition, the court may  
8 impose conditions of community supervision and other sanctions,  
9 including up to thirty days of confinement, one hundred fifty hours of  
10 community service, and payment of legal financial obligations and  
11 restitution.

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

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

21 If the offender violates any condition of the disposition or the  
22 court finds that the respondent is failing to make satisfactory  
23 progress in treatment, the court may revoke the suspension and order  
24 execution of the sentence. The court shall give credit for any  
25 confinement time previously served if that confinement was for the  
26 offense for which the suspension is being revoked.

27 (7) For purposes of this section, "victim" means any person who has  
28 sustained emotional, psychological, physical, or financial injury to  
29 person or property as a direct result of the crime charged.

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

34 (9) In no case shall the term of confinement imposed by the court  
35 at disposition exceed that to which an adult would be subjected for the  
36 same offense.

37 NEW SECTION. **Sec. 12.** A new section is added to chapter 13.40 RCW  
38 to read as follows:



1 RECOMMENDED PROSECUTING STANDARDS  
2 FOR CHARGING AND PLEA DISPOSITIONS

3 INTRODUCTION: These standards are intended solely for the guidance  
4 of prosecutors in the state of Washington. They are not intended to,  
5 do not, and may not be relied upon to create a right or benefit,  
6 substantive or procedural, enforceable at law by a party in litigation  
7 with the state.

8 Evidentiary sufficiency. (1) Decision not to prosecute.

9 STANDARD: A prosecuting attorney may decline to prosecute, even  
10 though technically sufficient evidence to prosecute exists, in  
11 situations where prosecution would serve no public purpose, would  
12 defeat the underlying purpose of the law in question, or would result  
13 in decreased respect for the law. The decision not to prosecute or  
14 divert shall not be influenced by the race, gender, religion, or creed  
15 of the suspect.

16 GUIDELINES/COMMENTARY:

17 Examples

18 The following are examples of reasons not to prosecute which could  
19 satisfy the standard.

20 (a) Contrary to Legislative Intent - It may be proper to decline to  
21 charge where the application of criminal sanctions would be clearly  
22 contrary to the intent of the legislature in enacting the particular  
23 statute.

24 (b) Antiquated Statute - It may be proper to decline to charge  
25 where the statute in question is antiquated in that:

26 (i) It has not been enforced for many years; and

27 (ii) Most members of society act as if it were no longer in  
28 existence; and

29 (iii) It serves no deterrent or protective purpose in today's  
30 society; and

31 (iv) The statute has not been recently reconsidered by the  
32 legislature.

33 This reason is not to be construed as the basis for declining cases  
34 because the law in question is unpopular or because it is difficult to  
35 enforce.

36 (c) De Minimis Violation - It may be proper to decline to charge  
37 where the violation of law is only technical or insubstantial and where  
38 no public interest or deterrent purpose would be served by prosecution.

1 (d) Confinement on Other Charges - It may be proper to decline to  
2 charge because the accused has been sentenced on another charge to a  
3 lengthy period of confinement; and

4 (i) Conviction of the new offense would not merit any additional  
5 direct or collateral punishment;

6 (ii) The new offense is either a misdemeanor or a felony which is  
7 not particularly aggravated; and

8 (iii) Conviction of the new offense would not serve any significant  
9 deterrent purpose.

10 (e) Pending Conviction on Another Charge - It may be proper to  
11 decline to charge because the accused is facing a pending prosecution  
12 in the same or another county; and

13 (i) Conviction of the new offense would not merit any additional  
14 direct or collateral punishment;

15 (ii) Conviction in the pending prosecution is imminent;

16 (iii) The new offense is either a misdemeanor or a felony which is  
17 not particularly aggravated; and

18 (iv) Conviction of the new offense would not serve any significant  
19 deterrent purpose.

20 (f) High Disproportionate Cost of Prosecution - It may be proper to  
21 decline to charge where the cost of locating or transporting, or the  
22 burden on, prosecution witnesses is highly disproportionate to the  
23 importance of prosecuting the offense in question. The reason should  
24 be limited to minor cases and should not be relied upon in serious  
25 cases.

26 (g) Improper Motives of Complainant - It may be proper to decline  
27 charges because the motives of the complainant are improper and  
28 prosecution would serve no public purpose, would defeat the underlying  
29 purpose of the law in question, or would result in decreased respect  
30 for the law.

31 (h) Immunity - It may be proper to decline to charge where immunity  
32 is to be given to an accused in order to prosecute another where the  
33 accused information or testimony will reasonably lead to the conviction  
34 of others who are responsible for more serious criminal conduct or who  
35 represent a greater danger to the public interest.

36 (i) Victim Request - It may be proper to decline to charge because  
37 the victim requests that no criminal charges be filed and the case  
38 involves the following crimes or situations:

1 (i) Assault cases where the victim has suffered little or no  
2 injury;

3 (ii) Crimes against property, not involving violence, where no  
4 major loss was suffered;

5 (iii) Where doing so would not jeopardize the safety of society.

6 Care should be taken to insure that the victim's request is freely  
7 made and is not the product of threats or pressure by the accused.

8 The presence of these factors may also justify the decision to  
9 dismiss a prosecution which has been commenced.

#### 10 Notification

11 The prosecutor is encouraged to notify the victim, when practical,  
12 and the law enforcement personnel, of the decision not to prosecute.

13 (2) Decision to prosecute.

#### 14 STANDARD:

15 Crimes against persons will be filed if sufficient admissible  
16 evidence exists, which, when considered with the most plausible,  
17 reasonably foreseeable defense that could be raised under the evidence,  
18 would justify conviction by a reasonable and objective fact-finder.  
19 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,  
20 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and  
21 9A.64.020 the prosecutor should avoid pre-filing agreements or  
22 diversions intended to place the accused in a program of treatment or  
23 counseling, so that treatment, if determined to be beneficial, can be  
24 proved pursuant to RCW 13.40.160(5).

25 Crimes against property/other crimes will be filed if the  
26 admissible evidence is of such convincing force as to make it probable  
27 that a reasonable and objective fact-finder would convict after hearing  
28 all the admissible evidence and the most plausible defense that could  
29 be raised.

30 The categorization of crimes for these charging standards shall be  
31 the same as found in RCW 9.94A.440(2).

32 The decision to prosecute or use diversion shall not be influenced  
33 by the race, gender, religion, or creed of the respondent.

#### 34 Selection of Charges/Degree of Charge

35 (1) The prosecutor should file charges which adequately describe  
36 the nature of the respondent's conduct. Other offenses may be charged  
37 only if they are necessary to ensure that the charges:

38 (a) Will significantly enhance the strength of the state's case at  
39 trial; or

1 (b) Will result in restitution to all victims.

2 (2) The prosecutor should not overcharge to obtain a guilty plea.

3 Overcharging includes:

4 (a) Charging a higher degree;

5 (b) Charging additional counts.

6 This standard is intended to direct prosecutors to charge those  
7 crimes which demonstrate the nature and seriousness of a respondent's  
8 criminal conduct, but to decline to charge crimes which are not  
9 necessary to such an indication. Crimes which do not merge as a matter  
10 of law, but which arise from the same course of conduct, do not all  
11 have to be charged.

12 The selection of charges and/or the degree of the charge shall not  
13 be influenced by the race, gender, religion, or creed of the  
14 respondent.

15 GUIDELINES/COMMENTARY:

16 Police Investigation

17 A prosecuting attorney is dependent upon law enforcement agencies  
18 to conduct the necessary factual investigation which must precede the  
19 decision to prosecute. The prosecuting attorney shall ensure that a  
20 thorough factual investigation has been conducted before a decision to  
21 prosecute is made. In ordinary circumstances the investigation should  
22 include the following:

23 (1) The interviewing of all material witnesses, together with the  
24 obtaining of written statements whenever possible;

25 (2) The completion of necessary laboratory tests; and

26 (3) The obtaining, in accordance with constitutional requirements,  
27 of the suspect's version of the events.

28 If the initial investigation is incomplete, a prosecuting attorney  
29 should insist upon further investigation before a decision to prosecute  
30 is made, and specify what the investigation needs to include.

31 Exceptions

32 In certain situations, a prosecuting attorney may authorize filing  
33 of a criminal complaint before the investigation is complete if:

34 (1) Probable cause exists to believe the suspect is guilty; and

35 (2) The suspect presents a danger to the community or is likely to  
36 flee if not apprehended; or

37 (3) The arrest of the suspect is necessary to complete the  
38 investigation of the crime.

1 In the event that the exception that the standard is applied, the  
2 prosecuting attorney shall obtain a commitment from the law enforcement  
3 agency involved to complete the investigation in a timely manner. If  
4 the subsequent investigation does not produce sufficient evidence to  
5 meet the normal charging standard, the complaint should be dismissed.

#### 6 Investigation Techniques

7 The prosecutor should be fully advised of the investigatory  
8 techniques that were used in the case investigation including:

- 9 (1) Polygraph testing;
- 10 (2) Hypnosis;
- 11 (3) Electronic surveillance;
- 12 (4) Use of informants.

#### 13 Prefiling Discussions with Defendant

14 Discussions with the defendant or his or her representative  
15 regarding the selection or disposition of charges may occur prior to  
16 the filing of charges, and potential agreements can be reached.

#### 17 PLEA DISPOSITIONS:

##### 18 Standard

19 (1) Except as provided in subsection (2) of this section, a  
20 respondent will normally be expected to plead guilty to the charge or  
21 charges which adequately describe the nature of his or her criminal  
22 conduct or go to trial.

23 (2) In certain circumstances, a plea agreement with a respondent in  
24 exchange for a plea of guilty to a charge or charges that may not fully  
25 describe the nature of his or her criminal conduct may be necessary and  
26 in the public interest. Such situations may include the following:

27 (a) Evidentiary problems which make conviction of the original  
28 charges doubtful;

29 (b) The respondent's willingness to cooperate in the investigation  
30 or prosecution of others whose criminal conduct is more serious or  
31 represents a greater public threat;

32 (c) A request by the victim when it is not the result of pressure  
33 from the respondent;

34 (d) The discovery of facts which mitigate the seriousness of the  
35 respondent's conduct;

36 (e) The correction of errors in the initial charging decision;

37 (f) The respondent's history with respect to criminal activity;

38 (g) The nature and seriousness of the offense or offenses charged;

39 (h) The probable effect of witnesses.

1 (3) No plea agreement shall be influenced by the race, gender,  
2 religion, or creed of the respondent. This includes but is not limited  
3 to the prosecutor's decision to utilize such disposition alternatives  
4 as "Option B," the Special Sex Offender Disposition Alternative, and  
5 manifest injustice.

6 DISPOSITION RECOMMENDATIONS:

7 Standard

8 The prosecutor may reach an agreement regarding disposition  
9 recommendations.

10 The prosecutor shall not agree to withhold relevant information  
11 from the court concerning the plea agreement.

12 **Sec. 13.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read  
13 as follows:

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

19 If the court concludes, and enters reasons for its conclusion, that  
20 disposition within the standard range would effectuate a manifest  
21 injustice the court shall impose a disposition outside the standard  
22 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The  
23 court's finding of manifest injustice shall be supported by clear and  
24 convincing evidence.

25 A disposition outside the standard range shall be determinate and  
26 shall be comprised of confinement or community supervision, or a  
27 combination thereof. When a judge finds a manifest injustice and  
28 imposes a sentence of confinement exceeding thirty days, the court  
29 shall sentence the juvenile to a maximum term, and the provisions of  
30 (~~RCW 13.40.030(2)~~) section 14 of this act shall be used to determine  
31 the range. A disposition outside the standard range is appealable  
32 under RCW 13.40.230 by the state or the respondent. A disposition  
33 within the standard range is not appealable under RCW 13.40.230.

34 (2) Where the respondent is found to be a minor or first offender,  
35 the court shall order that the respondent serve a term of community  
36 supervision as indicated in option A (~~or option B~~) of schedule D-1,  
37 RCW 13.40.0357 except as provided in subsections (5) and (6) of this  
38 section. If the court determines that a disposition of community

1 supervision would effectuate a manifest injustice the court may impose  
2 another disposition under option ((C)) B of schedule D-1, RCW  
3 13.40.0357. Except as provided in subsection (5) of this section, a  
4 disposition other than a community supervision may be imposed only  
5 after the court enters reasons upon which it bases its conclusions that  
6 imposition of community supervision would effectuate a manifest  
7 injustice. When a judge finds a manifest injustice and imposes a  
8 sentence of confinement exceeding thirty days, the court shall sentence  
9 the juvenile to a maximum term, and the provisions of ((RCW  
10 13.40.030(2))) section 14 of this act shall be used to determine the  
11 range. The court's finding of manifest injustice shall be supported by  
12 clear and convincing evidence.

13 Except for disposition of community supervision or a disposition  
14 imposed pursuant to subsection (5) of this section, a disposition may  
15 be appealed as provided in RCW 13.40.230 by the state or the  
16 respondent. A disposition of community supervision or a disposition  
17 imposed pursuant to subsection (5) of this section may not be appealed  
18 under RCW 13.40.230.

19 (3) Where a respondent is found to have committed an offense for  
20 which the respondent declined to enter into a diversion agreement, the  
21 court shall impose a term of community supervision limited to the  
22 conditions allowed in a diversion agreement as provided in RCW  
23 13.40.080(2).

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

25 (a) The court shall impose a determinate disposition within the  
26 standard range((+s)) for such offense, as indicated in option A of  
27 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and  
28 (6) of this section. If the standard range includes a term of  
29 confinement exceeding thirty days, commitment shall be to the  
30 department for the standard range of confinement; or

31 ~~(b) ((If the middle offender has less than 110 points, the court  
32 shall impose a determinate disposition of community supervision and/or  
33 up to thirty days confinement, as indicated in option B of schedule D-  
34 2, RCW 13.40.0357 in which case, if confinement has been imposed, the  
35 court shall state either aggravating or mitigating factors as set forth  
36 in RCW 13.40.150-)) (i) If the middle offender has 110 points or more,  
37 the court may impose a disposition under option A and may suspend the  
38 disposition and impose a determinate disposition of community  
39 supervision for a period of up to one year or the maximum term allowed~~

1 by the standard range, whichever is longer, on the condition that the  
2 offender serve up to thirty days of confinement and follow all  
3 conditions of community supervision. If confinement has been imposed,  
4 the court shall state either aggravating or mitigating factors as set  
5 forth in RCW 13.40.150. If the offender violates any condition of the  
6 disposition including conditions of a probation bond, the court may  
7 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension  
8 and order execution of the disposition. The court shall give credit  
9 for any confinement time previously served if that confinement was for  
10 the offense for which the suspension is being revoked.

11 (ii) If the respondent is a middle offender with 110 points or  
12 more, the court may impose the special disposition option under section  
13 11 of this act.

14 (c) Only if the court concludes, and enters reasons for its  
15 conclusions, that disposition as provided in subsection (4)(a) or (b)  
16 of this section would effectuate a manifest injustice, the court shall  
17 sentence the juvenile to a maximum term, and the provisions of ((RCW  
18 13.40.030(2))) section 14 of this act shall be used to determine the  
19 range. The court's finding of manifest injustice shall be supported by  
20 clear and convincing evidence.

21 (d) A disposition pursuant to subsection (4)(c) of this section is  
22 appealable under RCW 13.40.230 by the state or the respondent. A  
23 disposition pursuant to subsection (4)(a) or (b) of this section is not  
24 appealable under RCW 13.40.230.

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

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

38 The examiner shall assess and report regarding the respondent's  
39 amenability to treatment and relative risk to the community. A



1 proposed treatment plan shall be provided and shall include, at a  
2 minimum:

3 (a)(i) Frequency and type of contact between the offender and  
4 therapist;

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

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

10 (iv) Anticipated length of treatment; and

11 (v) Recommended crime-related prohibitions.

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

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

33 (b)(i) Devote time to a specific education, employment, or  
34 occupation;

35 (ii) Undergo available outpatient sex offender treatment for up to  
36 two years, or inpatient sex offender treatment not to exceed the  
37 standard range of confinement for that offense. A community mental  
38 health center may not be used for such treatment unless it has an  
39 appropriate program designed for sex offender treatment. The

1 respondent shall not change sex offender treatment providers or  
2 treatment conditions without first notifying the prosecutor, the  
3 probation counselor, and the court, and shall not change providers  
4 without court approval after a hearing if the prosecutor or probation  
5 counselor object to the change;

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

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

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

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

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

17 (viii) Comply with the conditions of any court-ordered probation  
18 bond.

19 The sex offender treatment provider shall submit quarterly reports  
20 on the respondent's progress in treatment to the court and the parties.  
21 The reports shall reference the treatment plan and include at a minimum  
22 the following: Dates of attendance, respondent's compliance with  
23 requirements, treatment activities, the respondent's relative progress  
24 in treatment, and any other material specified by the court at the time  
25 of the disposition.

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

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

1 (C) the evaluation and treatment plan comply with this subsection (5)  
2 and the rules adopted by the department of health.

3 If the offender violates any condition of the disposition or the  
4 court finds that the respondent is failing to make satisfactory  
5 progress in treatment, the court may revoke the suspension and order  
6 execution of the disposition or the court may impose a penalty of up to  
7 thirty days' confinement for violating conditions of the disposition.  
8 The court may order both execution of the disposition and up to thirty  
9 days' confinement for the violation of the conditions of the  
10 disposition. The court shall give credit for any confinement time  
11 previously served if that confinement was for the offense for which the  
12 suspension is being revoked.

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

18 (6) RCW 13.40.193 shall govern the disposition of any juvenile  
19 adjudicated of possessing a firearm in violation of RCW  
20 9.41.040(1)((+e))(b)(iv) or any crime in which a special finding is  
21 entered that the juvenile was armed with a firearm.

22 (7) Whenever a juvenile offender is entitled to credit for time  
23 spent in detention prior to a dispositional order, the dispositional  
24 order shall specifically state the number of days of credit for time  
25 served.

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

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

32 NEW SECTION. **Sec. 14.** A new section is added to chapter 13.40 RCW  
33 to read as follows:

34 When the court finds a manifest injustice, imposes a sentence of  
35 confinement exceeding thirty days, and sets the maximum term, the  
36 department shall determine the range subject to the following  
37 limitations:

1 (1) When the maximum term in the range is ninety days or less, the  
2 minimum term in the range may be no less than fifty percent of the  
3 maximum term in the range;

4 (2) When the maximum term in the range is greater than ninety days  
5 but not greater than one year, the minimum term in the range may be no  
6 less than seventy-five percent of the maximum term in the range; and

7 (3) When the maximum term in the range is more than one year, the  
8 minimum term in the range may be no less than eighty percent of the  
9 maximum term in the range.

10 **Sec. 15.** RCW 13.40.210 and 1994 sp.s. c 77 s 527 are each amended  
11 to read as follows:

12 (1) The secretary shall, except in the case of a juvenile committed  
13 by a court to a term of confinement in a state institution outside the  
14 appropriate standard range for the offense(s) for which the juvenile  
15 was found to be guilty established pursuant to ((RCW 13.40.030))  
16 section 14 of this act, set a release or discharge date for each  
17 juvenile committed to its custody. The release or discharge date shall  
18 be within the prescribed range to which a juvenile has been committed  
19 except as provided in RCW 13.40.320 concerning offenders the department  
20 determines are eligible for the juvenile offender basic training camp  
21 program. Such dates shall be determined prior to the expiration of  
22 sixty percent of a juvenile's minimum term of confinement included  
23 within the prescribed range to which the juvenile has been committed.  
24 The secretary shall release any juvenile committed to the custody of  
25 the department within four calendar days prior to the juvenile's  
26 release date or on the release date set under this chapter. Days spent  
27 in the custody of the department shall be tolled by any period of time  
28 during which a juvenile has absented himself or herself from the  
29 department's supervision without the prior approval of the secretary or  
30 the secretary's designee.

31 (2) The secretary shall monitor the average daily population of the  
32 state's juvenile residential facilities. When the secretary concludes  
33 that in-residence population of residential facilities exceeds one  
34 hundred five percent of the rated bed capacity specified in statute, or  
35 in absence of such specification, as specified by the department in  
36 rule, the secretary may recommend reductions to the governor. On  
37 certification by the governor that the recommended reductions are  
38 necessary, the secretary has authority to administratively release a

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

13 (3) Following the juvenile's release under subsection (1) of this  
14 section, the secretary may require the juvenile to comply with a  
15 program of parole to be administered by the department in his or her  
16 community which shall last no longer than eighteen months, except that  
17 in the case of a juvenile sentenced for rape in the first or second  
18 degree, rape of a child in the first or second degree, child  
19 molestation in the first degree, or indecent liberties with forcible  
20 compulsion, the period of parole shall be twenty-four months. A parole  
21 program is mandatory for offenders released under subsection (2) of  
22 this section. The secretary shall, for the period of parole,  
23 facilitate the juvenile's reintegration into his or her community and  
24 to further this goal shall require the juvenile to refrain from  
25 possessing a firearm or using a deadly weapon and refrain from  
26 committing new offenses and may require the juvenile to: (a) Undergo  
27 available medical ((~~or~~), psychiatric ((~~treatment~~), drug and alcohol,  
28 mental health, and other offense-related treatment services; (b) report  
29 as directed to a parole officer and/or designee; (c) pursue a course of  
30 study ((~~or~~), vocational training, or employment; ((~~and~~)) (d) notify  
31 the parole officer of the current address where he or she resides; (e)  
32 be present at a particular address during specified hours; (f) remain  
33 within prescribed geographical boundaries ((~~and notify the department~~  
34 ~~of any change in his or her address~~)); (g) submit to electronic  
35 monitoring; (h) refrain from using illegal drugs and alcohol, and  
36 submit to random urinalysis when requested by the assigned parole  
37 officer; and (i) refrain from contact with specific individuals or a  
38 specified class of individuals. After termination of the parole

1 period, the juvenile shall be discharged from the department's  
2 supervision.

3 (4)(a) The department may also modify parole for violation thereof.  
4 If, after affording a juvenile all of the due process rights to which  
5 he or she would be entitled if the juvenile were an adult, the  
6 secretary finds that a juvenile has violated a condition of his or her  
7 parole, the secretary shall order one of the following which is  
8 reasonably likely to effectuate the purpose of the parole and to  
9 protect the public: (i) Continued supervision under the same  
10 conditions previously imposed; (ii) intensified supervision with  
11 increased reporting requirements; (iii) additional conditions of  
12 supervision authorized by this chapter; (iv) except as provided in  
13 (a)(v) of this subsection, imposition of a period of confinement not to  
14 exceed thirty days in a facility operated by or pursuant to a contract  
15 with the state of Washington or any city or county for a portion of  
16 each day or for a certain number of days each week with the balance of  
17 the days or weeks spent under supervision; and (v) the secretary may  
18 order any of the conditions or may return the offender to confinement  
19 (~~in an institution~~) for the remainder of the sentence range if the  
20 offense for which the offender was sentenced is rape in the first or  
21 second degree, rape of a child in the first or second degree, child  
22 molestation in the first degree, indecent liberties with forcible  
23 compulsion, or a sex offense that is also a serious violent offense as  
24 defined by RCW 9.94A.030.

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

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

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

1       **Sec. 16.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended  
2 to read as follows:

3       The secretary, assistant secretary, or the secretary's designee  
4 shall issue arrest warrants for juveniles who escape from department  
5 residential custody or abscond from parole supervision or fail to meet  
6 conditions of parole. These arrest warrants shall authorize any law  
7 enforcement, probation and parole, or peace officer of this state, or  
8 any other state where the juvenile is located, to arrest the juvenile  
9 and to place the juvenile in physical custody pending the juvenile's  
10 return to confinement in a state juvenile rehabilitation facility.

11       **Sec. 17.** RCW 9.94A.040 and 1995 c 269 s 303 are each amended to  
12 read as follows:

13       (1) A sentencing guidelines commission is established as an agency  
14 of state government.

15       (2) The commission shall, following a public hearing or hearings:

16       (a) Devise a series of recommended standard sentence ranges for all  
17 felony offenses and a system for determining which range of punishment  
18 applies to each offender based on the extent and nature of the  
19 offender's criminal history, if any;

20       (b) Devise recommended prosecuting standards in respect to charging  
21 of offenses and plea agreements; and

22       (c) Devise recommended standards to govern whether sentences are to  
23 be served consecutively or concurrently.

24       (3) Each of the commission's recommended standard sentence ranges  
25 shall include one or more of the following: Total confinement, partial  
26 confinement, community supervision, community service, and a fine.

27       (4) In devising the standard sentence ranges of total and partial  
28 confinement under this section, the commission is subject to the  
29 following limitations:

30       (a) If the maximum term in the range is one year or less, the  
31 minimum term in the range shall be no less than one-third of the  
32 maximum term in the range, except that if the maximum term in the range  
33 is ninety days or less, the minimum term may be less than one-third of  
34 the maximum;

35       (b) If the maximum term in the range is greater than one year, the  
36 minimum term in the range shall be no less than seventy-five percent of  
37 the maximum term in the range; and

1 (c) The maximum term of confinement in a range may not exceed the  
2 statutory maximum for the crime as provided in RCW 9A.20.020.

3 (5) In carrying out its duties under subsection (2) of this  
4 section, the commission shall give consideration to the existing  
5 guidelines adopted by the association of superior court judges and the  
6 Washington association of prosecuting attorneys and the experience  
7 gained through use of those guidelines. The commission shall emphasize  
8 confinement for the violent offender and alternatives to total  
9 confinement for the nonviolent offender.

10 (6) This commission shall conduct a study to determine the capacity  
11 of correctional facilities and programs which are or will be available.  
12 While the commission need not consider such capacity in arriving at its  
13 recommendations, the commission shall project whether the  
14 implementation of its recommendations would result in exceeding such  
15 capacity. If the commission finds that this result would probably  
16 occur, then the commission shall prepare an additional list of standard  
17 sentences which shall be consistent with such capacity.

18 (7) The commission may recommend to the legislature revisions or  
19 modifications to the standard sentence ranges and other standards. If  
20 implementation of the revisions or modifications would result in  
21 exceeding the capacity of correctional facilities, then the commission  
22 shall accompany its recommendation with an additional list of standard  
23 sentence ranges which are consistent with correction capacity.

24 (8) The commission shall study the existing criminal code and from  
25 time to time make recommendations to the legislature for modification.

26 (9) The commission (~~may~~) shall (a) serve as a clearinghouse and  
27 information center for the collection, preparation, analysis, and  
28 dissemination of information on state and local adult and juvenile  
29 sentencing practices; (b) develop and maintain a computerized adult and  
30 juvenile sentencing information system by individual superior court  
31 judge consisting of offender, offense, history, and sentence  
32 information entered from judgment and sentence forms for all adult  
33 felons; and (c) conduct ongoing research regarding adult and juvenile  
34 sentencing guidelines, use of total confinement and alternatives to  
35 total confinement, plea bargaining, and other matters relating to the  
36 improvement of the adult criminal justice system and the juvenile  
37 justice system.

38 (~~The staff and executive officer of the commission may~~  
39 ~~provide staffing and services to the juvenile disposition standards~~



1 ~~commission, if authorized by RCW 13.40.025 and 13.40.027. The~~  
2 ~~commission may conduct joint meetings with the juvenile disposition~~  
3 ~~standards commission.~~

4 ~~((11))~~) The commission shall assume the powers and duties of the  
5 juvenile disposition standards commission after June 30, ~~((1997))~~ 1996.

6 (11) The commission shall:

7 (a) Evaluate the effectiveness of existing disposition standards  
8 and related statutes in implementing policies set forth in RCW  
9 13.40.010 generally, specifically review the guidelines relating to the  
10 confinement of minor and first offenders as well as the use of  
11 diversion, and review the application of current and proposed juvenile  
12 sentencing standards and guidelines for inequitable sentencing outcomes  
13 for youth based on race, ethnicity, or gender;

14 (b) Solicit the comments and suggestions of the juvenile justice  
15 community concerning disposition standards, and make recommendations to  
16 the legislature regarding revisions or modifications of the standards  
17 in accordance with section 18 of this act. The evaluations shall be  
18 submitted to the legislature on December 1 of each odd-numbered year.  
19 The department of social and health services shall provide the  
20 commission with available data concerning the implementation of the  
21 disposition standards and related statutes and their effect on the  
22 performance of the department's responsibilities relating to juvenile  
23 offenders and with recommendations for modification of the disposition  
24 standards. The office of the administrator for the courts shall  
25 provide the commission with available data on diversion and  
26 dispositions of juvenile offenders under chapter 13.40 RCW; and

27 (c) Not later than December 1, 1997, and at least every two years  
28 thereafter, based on available information, report to the governor and  
29 the legislature on:

30 (i) Racial disproportionality in juvenile and adult sentencing;

31 (ii) The capacity of state and local juvenile and adult facilities  
32 and resources; and

33 (iii) Recidivism information on adult and juvenile offenders.

34 (12) The commission shall exercise its duties under this section in  
35 conformity with chapter 34.05 RCW.

36 NEW SECTION. Sec. 18. A new section is added to chapter 9.94A RCW  
37 to read as follows:

1 (1) The sentencing guidelines commission shall recommend to the  
2 legislature no later than July 1, 1997, disposition standards for all  
3 offenses subject to the juvenile justice act, chapter 13.40 RCW. The  
4 commission shall publish a preliminary report no later than December 1,  
5 1996.

6 (2) The standards shall establish, in accordance with the purposes  
7 of chapter 13.40 RCW, ranges which may include terms of confinement or  
8 community supervision, or both, established on the basis of the instant  
9 offense and the history and seriousness of previous offenses, but in no  
10 case may the period of confinement and supervision exceed that to which  
11 an adult may be subject for the same offense or offenses.

12 (3) Standards recommended for offenders listed in RCW 13.40.020(1)  
13 must include a range of confinement which may not be less than thirty  
14 days. No standard range may include a period of confinement which  
15 includes both more than thirty days and thirty or less days.  
16 Disposition standards recommended by the commission must provide that  
17 in all cases in which a youth is sentenced to a term of confinement in  
18 excess of thirty days the department may impose an additional period of  
19 parole.

20 (4) Standards of confinement which may be proposed may relate only  
21 to the length of the proposed terms and not to the nature of the  
22 security to be imposed.

23 (5) The commission shall make recommendations for disposition  
24 standards that result in a simplified sentencing system. In setting  
25 the new standards, the commission shall focus on the need to protect  
26 public safety by emphasizing punishment, deterrence, and confinement  
27 for violent and repeat offenders. The seriousness of the offense must  
28 be the most important factor in determining the length of confinement,  
29 while the offender's age and criminal history must count as  
30 contributing factors. The commission shall increase judicial  
31 flexibility and discretion by broadening standard ranges of  
32 confinement. Alternatives to total confinement must be considered for  
33 nonviolent offenders. The commission shall take into account the  
34 capacity of state juvenile facilities, including the additional  
35 capacity that is being developed or that can feasibly be developed in  
36 the near future.

37 **Sec. 19.** RCW 9.94A.060 and 1993 c 11 s 1 are each amended to read  
38 as follows:

1 (1) The commission consists of (~~sixteen~~) nineteen voting members,  
2 one of whom the governor shall designate as chairperson. With the  
3 exception of ex officio voting members, the voting members of the  
4 commission shall be appointed by the governor, subject to confirmation  
5 by the senate.

6 (2) The voting membership consists of the following:

7 (a) The head of the state agency having general responsibility for  
8 adult correction programs, as an ex officio member;

9 (b) The director of financial management or designee, as an ex  
10 officio member;

11 (c) Until (~~June 30, 1998~~) the agency ceases to exist under RCW  
12 9.95.0011, the chair of the indeterminate sentence review board, as an  
13 ex officio member;

14 (d) The (~~chair of the clemency and pardons board~~) head of the  
15 state agency, or his or her designee, having responsibility for  
16 juvenile corrections programs, as an ex officio member;

17 (e) Two prosecuting attorneys;

18 (f) Two attorneys with particular expertise in defense work;

19 (g) Four persons who are superior court judges;

20 (h) One person who is the chief law enforcement officer of a county  
21 or city;

22 (i) Three members of the public who are not (~~and have never been~~)  
23 prosecutors, defense attorneys, judges, or law enforcement officers,  
24 one of whom is appointed as a representative of crime victims;

25 (j) One person who is an elected official of a county government,  
26 other than a prosecuting attorney or sheriff;

27 (k) One person who is an elected official of a city government;

28 (l) One person who is an administrator of juvenile court services.

29 In making the appointments, the governor shall endeavor to assure  
30 that the commission membership includes adequate representation and  
31 expertise relating to both the adult criminal justice system and the  
32 juvenile justice system. In making the appointments, the governor  
33 shall seek the recommendations of Washington prosecutors in respect to  
34 the prosecuting attorney members, of the Washington state bar  
35 association in respect to the defense attorney members, of the  
36 association of superior court judges in respect to the members who are  
37 judges, (~~and~~) of the Washington association of sheriffs and police  
38 chiefs in respect to the member who is a law enforcement officer, of  
39 the Washington state association of counties in respect to the member

1 who is a county official, of the association of Washington cities in  
2 respect to the member who is a city official, and of the Washington  
3 association of juvenile court administrators in respect to the member  
4 who is an administrator of juvenile court services.

5 (3)(a) All voting members of the commission, except ex officio  
6 voting members, shall serve terms of three years and until their  
7 successors are appointed and confirmed. (~~However, the governor shall~~  
8 ~~stagger the terms by appointing four of the initial members for terms~~  
9 ~~of one year, four for terms of two years, and four for terms of three~~  
10 ~~years.~~)

11 (b) The governor shall stagger the terms of the members appointed  
12 under subsection (2)(j), (k), and (l) of this section by appointing one  
13 of them for a term of one year, one for a term of two years, and one  
14 for a term of three years.

15 (4) The speaker of the house of representatives and the president  
16 of the senate may each appoint two nonvoting members to the commission,  
17 one from each of the two largest caucuses in each house. The members  
18 so appointed shall serve two-year terms, or until they cease to be  
19 members of the house from which they were appointed, whichever occurs  
20 first.

21 (5) The members of the commission shall be reimbursed for travel  
22 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative  
23 members shall be reimbursed by their respective houses as provided  
24 under RCW 44.04.120, as now existing or hereafter amended. Members  
25 shall be compensated in accordance with RCW 43.03.250.

26 **Sec. 20.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended  
27 to read as follows:

28 (1) For purposes of this chapter:

29 (a) "Juvenile justice or care agency" means any of the following:  
30 Police, diversion units, court, prosecuting attorney, defense attorney,  
31 detention center, attorney general, the department of social and health  
32 services and its contracting agencies, schools; and, in addition,  
33 persons or public or private agencies having children committed to  
34 their custody;

35 (b) "Official juvenile court file" means the legal file of the  
36 juvenile court containing the petition or information, motions,  
37 memorandums, briefs, findings of the court, and court orders;

1 (c) "Social file" means the juvenile court file containing the  
2 records and reports of the probation counselor;

3 (d) "Records" means the official juvenile court file, the social  
4 file, and records of any other juvenile justice or care agency in the  
5 case.

6 (2) Each petition or information filed with the court may include  
7 only one juvenile and each petition or information shall be filed under  
8 a separate docket number. The social file shall be filed separately  
9 from the official juvenile court file.

10 (3) It is the duty of any juvenile justice or care agency to  
11 maintain accurate records. To this end:

12 (a) The agency may never knowingly record inaccurate information.  
13 Any information in records maintained by the department of social and  
14 health services relating to a petition filed pursuant to chapter 13.34  
15 RCW that is found by the court, upon proof presented, to be false or  
16 inaccurate shall be corrected or expunged from such records by the  
17 agency;

18 (b) An agency shall take reasonable steps to assure the security of  
19 its records and prevent tampering with them; and

20 (c) An agency shall make reasonable efforts to insure the  
21 completeness of its records, including action taken by other agencies  
22 with respect to matters in its files.

23 (4) Each juvenile justice or care agency shall implement procedures  
24 consistent with the provisions of this chapter to facilitate inquiries  
25 concerning records.

26 (5) Any person who has reasonable cause to believe information  
27 concerning that person is included in the records of a juvenile justice  
28 or care agency and who has been denied access to those records by the  
29 agency may make a motion to the court for an order authorizing that  
30 person to inspect the juvenile justice or care agency record concerning  
31 that person. The court shall grant the motion to examine records  
32 unless it finds that in the interests of justice or in the best  
33 interests of the juvenile the records or parts of them should remain  
34 confidential.

35 (6) A juvenile, or his or her parents, or any person who has  
36 reasonable cause to believe information concerning that person is  
37 included in the records of a juvenile justice or care agency may make  
38 a motion to the court challenging the accuracy of any information  
39 concerning the moving party in the record or challenging the continued

1 possession of the record by the agency. If the court grants the  
2 motion, it shall order the record or information to be corrected or  
3 destroyed.

4 (7) The person making a motion under subsection (5) or (6) of this  
5 section shall give reasonable notice of the motion to all parties to  
6 the original action and to any agency whose records will be affected by  
7 the motion.

8 (8) The court may permit inspection of records by, or release of  
9 information to, any clinic, hospital, or agency which has the subject  
10 person under care or treatment. The court may also permit inspection  
11 by or release to individuals or agencies, including juvenile justice  
12 advisory committees of county law and justice councils, engaged in  
13 legitimate research for educational, scientific, or public purposes.  
14 The court may also permit inspection of, or release of information  
15 from, records which have been sealed pursuant to RCW 13.50.050(11).  
16 The court shall release to the sentencing guidelines commission records  
17 needed for its research and data-gathering functions under RCW  
18 9.94A.040 and other statutes. Access to records or information for  
19 research purposes shall be permitted only if the anonymity of all  
20 persons mentioned in the records or information will be preserved.  
21 Each person granted permission to inspect juvenile justice or care  
22 agency records for research purposes shall present a notarized  
23 statement to the court stating that the names of juveniles and parents  
24 will remain confidential.

25 (9) Juvenile detention facilities shall release records to the  
26 (~~juvenile disposition standards~~) sentencing guidelines commission  
27 under RCW (~~13.40.025~~) 9.94A.040 upon request. The commission shall  
28 not disclose the names of any juveniles or parents mentioned in the  
29 records without the named individual's written permission.

30 **Sec. 21.** RCW 72.09.300 and 1994 sp.s. c 7 s 542 are each amended  
31 to read as follows:

32 (1) Every county legislative authority shall by resolution or  
33 ordinance establish a local law and justice council. The county  
34 legislative authority shall determine the size and composition of the  
35 council, which shall include the county sheriff and a representative of  
36 the municipal police departments within the county, the county  
37 prosecutor and a representative of the municipal prosecutors within the  
38 county, a representative of the city legislative authorities within the

1 county, a representative of the county's superior, juvenile, district,  
2 and municipal courts, the county jail administrator, the county clerk,  
3 the county risk manager, and the secretary of corrections. Officials  
4 designated may appoint representatives.

5 (2) A combination of counties may establish a local law and justice  
6 council by intergovernmental agreement. The agreement shall comply  
7 with the requirements of this section.

8 (3) The local law and justice council shall develop a local law and  
9 justice plan for the county. The council shall design the elements and  
10 scope of the plan, subject to final approval by the county legislative  
11 authority. The general intent of the plan shall include seeking means  
12 to maximize local resources including personnel and facilities, reduce  
13 duplication of services, and share resources between local and state  
14 government in order to accomplish local efficiencies without  
15 diminishing effectiveness. The plan shall also include a section on  
16 jail management. This section may include the following elements:

17 (a) A description of current jail conditions, including whether the  
18 jail is overcrowded;

19 (b) A description of potential alternatives to incarceration;

20 (c) A description of current jail resources;

21 (d) A description of the jail population as it presently exists and  
22 how it is projected to change in the future;

23 (e) A description of projected future resource requirements;

24 (f) A proposed action plan, which shall include recommendations to  
25 maximize resources, maximize the use of intermediate sanctions,  
26 minimize overcrowding, avoid duplication of services, and effectively  
27 manage the jail and the offender population;

28 (g) A list of proposed advisory jail standards and methods to  
29 effect periodic quality assurance inspections of the jail;

30 (h) A proposed plan to collect, synthesize, and disseminate  
31 technical information concerning local criminal justice activities,  
32 facilities, and procedures;

33 (i) A description of existing and potential services for offenders  
34 including employment services, substance abuse treatment, mental health  
35 services, and housing referral services.

36 (4) The council may propose other elements of the plan, which shall  
37 be subject to review and approval by the county legislative authority,  
38 prior to their inclusion into the plan.

1 (5) The county legislative authority may request technical  
2 assistance in developing or implementing the plan from other units or  
3 agencies of state or local government, which shall include the  
4 department, the office of financial management, and the Washington  
5 association of sheriffs and police chiefs.

6 (6) Upon receiving a request for assistance from a county, the  
7 department may provide the requested assistance.

8 (7) The secretary may adopt rules for the submittal, review, and  
9 approval of all requests for assistance made to the department. The  
10 secretary may also appoint an advisory committee of local and state  
11 government officials to recommend policies and procedures relating to  
12 the state and local correctional systems and to assist the department  
13 in providing technical assistance to local governments. The committee  
14 shall include representatives of the county sheriffs, the police  
15 chiefs, the county prosecuting attorneys, the county and city  
16 legislative authorities, and the jail administrators. The secretary  
17 may contract with other state and local agencies and provide funding in  
18 order to provide the assistance requested by counties.

19 (8) The department shall establish a base level of state  
20 correctional services, which shall be determined and distributed in a  
21 consistent manner state-wide. The department's contributions to any  
22 local government, approved pursuant to this section, shall not operate  
23 to reduce this base level of services.

24 (9) The council shall establish an advisory committee on juvenile  
25 justice proportionality. The council shall appoint the county juvenile  
26 court administrator and at least five citizens as advisory committee  
27 members. The citizen advisory committee members shall be  
28 representative of the county's ethnic and geographic diversity. The  
29 advisory committee members shall serve two-year terms and may be  
30 reappointed. The duties of the advisory committee include:

31 (a) Monitoring and reporting to the ((juvenile disposition  
32 standards)) sentencing guidelines commission on the proportionality,  
33 effectiveness, and cultural relevance of:

34 (i) The rehabilitative services offered by county and state  
35 institutions to juvenile offenders; and

36 (ii) The rehabilitative services offered in conjunction with  
37 diversions, deferred dispositions, community supervision, and parole;

38 (b) Reviewing citizen complaints regarding bias or  
39 disproportionality in that county's juvenile justice system;



1 (c) By September 1 of each year, beginning with 1995, submit to the  
2 (~~juvenile disposition standards~~) sentencing guidelines commission a  
3 report summarizing the advisory committee's findings under (a) and (b)  
4 of this subsection.

5 **Sec. 22.** RCW 13.40.120 and 1981 c 299 s 9 are each amended to read  
6 as follows:

7 All hearings may be conducted at any time or place within the  
8 limits of the judicial district, and such cases may not be heard in  
9 conjunction with other business of any other division of the superior  
10 court. The court, if possible, shall hold hearings during nonstandard  
11 hours and take such other actions as are necessary to facilitate  
12 parental participation.

13 **Sec. 23.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are  
14 each reenacted and amended to read as follows:

15 The offender score is measured on the horizontal axis of the  
16 sentencing grid. The offender score rules are as follows:

17 The offender score is the sum of points accrued under this section  
18 rounded down to the nearest whole number.

19 (1) A prior conviction is a conviction which exists before the date  
20 of sentencing for the offense for which the offender score is being  
21 computed. Convictions entered or sentenced on the same date as the  
22 conviction for which the offender score is being computed shall be  
23 deemed "other current offenses" within the meaning of RCW 9.94A.400.

24 (2) Except as provided in subsection (4) of this section, class A  
25 and sex prior felony convictions shall always be included in the  
26 offender score. Class B prior felony convictions other than sex  
27 offenses shall not be included in the offender score, if since the last  
28 date of release from confinement (including full-time residential  
29 treatment) pursuant to a felony conviction, if any, or entry of  
30 judgment and sentence, the offender had spent ten consecutive years in  
31 the community without committing any crime that subsequently results in  
32 a conviction. Class C prior felony convictions other than sex offenses  
33 shall not be included in the offender score if, since the last date of  
34 release from confinement (including full-time residential treatment)  
35 pursuant to a felony conviction, if any, or entry of judgment and  
36 sentence, the offender had spent five consecutive years in the  
37 community without committing any crime that subsequently results in a

1 conviction. Serious traffic convictions shall not be included in the  
2 offender score if, since the last date of release from confinement  
3 (including full-time residential treatment) pursuant to a felony  
4 conviction, if any, or entry of judgment and sentence, the offender  
5 spent five years in the community without committing any crime that  
6 subsequently results in a conviction. This subsection applies to both  
7 adult and juvenile prior convictions.

8 (3) Out-of-state convictions for offenses shall be classified  
9 according to the comparable offense definitions and sentences provided  
10 by Washington law. Federal convictions for offenses shall be  
11 classified according to the comparable offense definitions and  
12 sentences provided by Washington law. If there is no clearly  
13 comparable offense under Washington law or the offense is one that is  
14 usually considered subject to exclusive federal jurisdiction, the  
15 offense shall be scored as a class C felony equivalent if it was a  
16 felony under the relevant federal statute.

17 (4) Always include juvenile convictions for sex offenses and  
18 serious violent offenses. Include other class A juvenile felonies only  
19 if the offender was 15 or older at the time the juvenile offense was  
20 committed. Include other class B and C juvenile felony convictions  
21 only if the offender was 15 or older at the time the juvenile offense  
22 was committed and the offender was less than 23 at the time the offense  
23 for which he or she is being sentenced was committed.

24 (5) Score prior convictions for felony anticipatory offenses  
25 (attempts, criminal solicitations, and criminal conspiracies) the same  
26 as if they were convictions for completed offenses.

27 (6)(a) In the case of multiple prior convictions, for the purpose  
28 of computing the offender score, count all convictions separately,  
29 except:

30 (i) Prior adult offenses which were found, under RCW  
31 9.94A.400(1)(a), to encompass the same criminal conduct, shall be  
32 counted as one offense, the offense that yields the highest offender  
33 score. The current sentencing court shall determine with respect to  
34 other prior adult offenses for which sentences were served concurrently  
35 whether those offenses shall be counted as one offense or as separate  
36 offenses using the "same criminal conduct" analysis found in RCW  
37 9.94A.400(1)(a), and if the court finds that they shall be counted as  
38 one offense, then the offense that yields the highest offender score  
39 shall be used. The current sentencing court may presume that such

1 other prior adult offenses were not the same criminal conduct from  
2 sentences imposed on separate dates, or in separate counties or  
3 jurisdictions, or in separate complaints, indictments, or informations;

4 (ii) Juvenile prior convictions entered or sentenced on the same  
5 date shall count as one offense, the offense that yields the highest  
6 offender score, except for juvenile prior convictions for violent  
7 offenses with separate victims, which shall count as separate offenses;  
8 and

9 (iii) In the case of multiple prior convictions for offenses  
10 committed before July 1, 1986, for the purpose of computing the  
11 offender score, count all adult convictions served concurrently as one  
12 offense, and count all juvenile convictions entered on the same date as  
13 one offense. Use the conviction for the offense that yields the  
14 highest offender score.

15 (b) As used in this subsection (6), "served concurrently" means  
16 that: (i) The latter sentence was imposed with specific reference to  
17 the former; (ii) the concurrent relationship of the sentences was  
18 judicially imposed; and (iii) the concurrent timing of the sentences  
19 was not the result of a probation or parole revocation on the former  
20 offense.

21 (7) If the present conviction is one of the anticipatory offenses  
22 of criminal attempt, solicitation, or conspiracy, count each prior  
23 conviction as if the present conviction were for a completed offense.

24 (8) If the present conviction is for a nonviolent offense and not  
25 covered by subsection (12) or (13) of this section, count one point for  
26 each adult prior felony conviction and one point for each juvenile  
27 prior violent felony conviction and 1/2 point for each juvenile prior  
28 nonviolent felony conviction.

29 (9) If the present conviction is for a violent offense and not  
30 covered in subsection (10), (11), (12), or (13) of this section, count  
31 two points for each prior adult and juvenile violent felony conviction,  
32 one point for each prior adult nonviolent felony conviction, and 1/2  
33 point for each prior juvenile nonviolent felony conviction.

34 (10) If the present conviction is for Murder 1 or 2, Assault 1,  
35 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count  
36 three points for prior adult and juvenile convictions for crimes in  
37 these categories, two points for each prior adult and juvenile violent  
38 conviction (not already counted), one point for each prior adult

1 nonviolent felony conviction, and 1/2 point for each prior juvenile  
2 nonviolent felony conviction.

3 (11) If the present conviction is for Burglary 1, count prior  
4 convictions as in subsection (9) of this section; however count two  
5 points for each prior adult Burglary 2 or residential burglary  
6 conviction, and one point for each prior juvenile Burglary 2 or  
7 residential burglary conviction.

8 (12) If the present conviction is for a felony traffic offense  
9 count two points for each adult or juvenile prior conviction for  
10 Vehicular Homicide or Vehicular Assault; for each felony offense or  
11 serious traffic offense, count one point for each adult and 1/2 point  
12 for each juvenile prior conviction.

13 (13) If the present conviction is for a drug offense count three  
14 points for each adult prior felony drug offense conviction and two  
15 points for each juvenile drug offense. All other adult and juvenile  
16 felonies are scored as in subsection (9) of this section if the current  
17 drug offense is violent, or as in subsection (8) of this section if the  
18 current drug offense is nonviolent.

19 (14) If the present conviction is for Willful Failure to Return  
20 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
21 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
22 72.09.310, count only prior escape convictions in the offender score.  
23 Count adult prior escape convictions as one point and juvenile prior  
24 escape convictions as 1/2 point.

25 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
26 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
27 juvenile prior convictions as 1/2 point.

28 (16) If the present conviction is for Burglary 2 or residential  
29 burglary, count priors as in subsection (8) of this section; however,  
30 count two points for each adult and juvenile prior Burglary 1  
31 conviction, two points for each adult prior Burglary 2 or residential  
32 burglary conviction, and one point for each juvenile prior Burglary 2  
33 or residential burglary conviction.

34 (17) If the present conviction is for a sex offense, count priors  
35 as in subsections (8) through (16) of this section; however count three  
36 points for each adult and juvenile prior sex offense conviction.

37 (18) If the present conviction is for an offense committed while  
38 the offender was under community placement or juvenile parole pursuant  
39 to RCW 13.40.215, add one point.

1       **Sec. 24.** RCW 13.40.220 and 1995 c 300 s 1 are each amended to read  
2 as follows:

3       (1) Whenever legal custody of a child is vested in someone other  
4 than his or her parents, under this chapter, and not vested in the  
5 department of social and health services, after due notice to the  
6 parents or other persons legally obligated to care for and support the  
7 child, and after a hearing, the court may order and decree that the  
8 parent or other legally obligated person shall pay in such a manner as  
9 the court may direct a reasonable sum representing in whole or in part  
10 the costs of support, treatment, and confinement of the child after the  
11 decree is entered.

12       (2) If the parent or other legally obligated person willfully fails  
13 or refuses to pay such sum, the court may proceed against such person  
14 for contempt.

15       (3) Whenever legal custody of a child is vested in the department  
16 under this chapter or a child is being supervised on parole by the  
17 department under RCW 13.40.210, the parents or other persons legally  
18 obligated to care for and support the child shall be liable for the  
19 costs of support, treatment, ~~((and))~~ confinement, and parole  
20 supervision of the child, in accordance with the department's  
21 reimbursement of cost schedule. The department shall adopt a  
22 reimbursement of cost schedule based on the costs of providing such  
23 services, and shall determine an obligation based on the responsible  
24 parents' or other legally obligated person's ability to pay. The  
25 department is authorized to adopt additional rules as appropriate to  
26 enforce this section.

27       (4) To enforce subsection (3) of this section, the department shall  
28 serve on the parents or other person legally obligated to care for and  
29 support the child a notice and finding of financial responsibility  
30 requiring the parents or other legally obligated person to appear and  
31 show cause in an adjudicative proceeding why the finding of  
32 responsibility and/or the amount thereof is incorrect and should not be  
33 ordered. This notice and finding shall relate to the costs of support,  
34 treatment, ~~((and))~~ confinement, and parole supervision of the child in  
35 accordance with the department's reimbursement of cost schedule adopted  
36 under this section, including periodic payments to be made in the  
37 future. The hearing shall be held pursuant to chapter 34.05 RCW, the  
38 Administrative Procedure Act, and the rules of the department.

1 (5) The notice and finding of financial responsibility shall be  
2 served in the same manner prescribed for the service of a summons in a  
3 civil action or may be served on the parent or legally obligated person  
4 by certified mail, return receipt requested. The receipt shall be  
5 prima facie evidence of service.

6 (6) If the parents or other legally obligated person objects to the  
7 notice and finding of financial responsibility, then an application for  
8 an adjudicative hearing may be filed within twenty days of the date of  
9 service of the notice. If an application for an adjudicative  
10 proceeding is filed, the presiding or reviewing officer shall determine  
11 the past liability and responsibility, if any, of the parents or other  
12 legally obligated person and shall also determine the amount of  
13 periodic payments to be made in the future. If the parents or other  
14 legally responsible person fails to file an application within twenty  
15 days, the notice and finding of financial responsibility shall become  
16 a final administrative order.

17 (7) Debts determined pursuant to this section are subject to  
18 collection action without further necessity of action by a presiding or  
19 reviewing officer. The department may collect the debt in accordance  
20 with RCW 43.20B.635, 43.20B.640, 74.20A.060, and 74.20A.070. The  
21 department shall exempt from payment parents receiving adoption support  
22 under RCW 74.13.100 through 74.13.145, parents eligible to receive  
23 adoption support under RCW 74.13.150, and a parent or other legally  
24 obligated person when the parent or other legally obligated person, or  
25 such person's child, spouse, or spouse's child, was the victim of the  
26 offense for which the child was committed.

27 (8) An administrative order entered pursuant to this section shall  
28 supersede any court order entered prior to June 13, 1994.

29 (9) The department shall be subrogated to the right of the child  
30 and his or her parents or other legally responsible person to receive  
31 support payments for the benefit of the child from any parent or  
32 legally obligated person pursuant to a support order established by a  
33 superior court or pursuant to RCW 74.20A.055. The department's right  
34 of subrogation under this section is limited to the liability  
35 established in accordance with its cost schedule for support,  
36 treatment, and confinement, except as addressed in subsection (10) of  
37 this section.

38 (10) Nothing in this section precludes the department from  
39 recouping such additional support payments from the child's parents or

1 other legally obligated person as required to qualify for receipt of  
2 federal funds. The department may adopt such rules dealing with  
3 liability for recoupment of support, treatment, ~~((or))~~ confinement, or  
4 parole supervision costs as may become necessary to entitle the state  
5 to participate in federal funds unless such rules would be expressly  
6 prohibited by law. If any law dealing with liability for recoupment of  
7 support, treatment, ~~((or))~~ confinement, or parole supervision costs is  
8 ruled to be in conflict with federal requirements which are a  
9 prescribed condition of the allocation of federal funds, such  
10 conflicting law is declared to be inoperative solely to the extent of  
11 the conflict.

12 **Sec. 25.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to read  
13 as follows:

14 (1) The prosecutor, respondent, or the court on its own motion may,  
15 before a hearing on the information on its merits, file a motion  
16 requesting the court to transfer the respondent for adult criminal  
17 prosecution and the matter shall be set for a hearing on the question  
18 of declining jurisdiction. Unless waived by the court, the parties,  
19 and their counsel, a decline hearing shall be held where:

20 (a) The respondent is fifteen, sixteen, or seventeen years of age  
21 and the information alleges a class A felony or an attempt,  
22 solicitation, or conspiracy to commit a class A felony; ~~((or))~~

23 (b) The respondent is seventeen years of age and the information  
24 alleges assault in the second degree, extortion in the first degree,  
25 indecent liberties, child molestation in the second degree, kidnapping  
26 in the second degree, or robbery in the second degree; or

27 (c) The information alleges an escape by the respondent and the  
28 respondent is serving a minimum juvenile sentence to age twenty-one.

29 (2) The court after a decline hearing may order the case  
30 transferred for adult criminal prosecution upon a finding that the  
31 declination would be in the best interest of the juvenile or the  
32 public. The court shall consider the relevant reports, facts,  
33 opinions, and arguments presented by the parties and their counsel.

34 (3) When the respondent is transferred for criminal prosecution or  
35 retained for prosecution in juvenile court, the court shall set forth  
36 in writing its finding which shall be supported by relevant facts and  
37 opinions produced at the hearing.

1       (4) If the court finds that declination of jurisdiction is  
2 appropriate it may, in lieu of transferring the respondent for adult  
3 criminal prosecution, classify the offender as a youthful offender and  
4 retain the offender in juvenile court. The court may classify an  
5 offender as a youthful offender only if the standard range that the  
6 offender could receive if remanded for adult criminal prosecution  
7 exceeds incarceration past the age of twenty-one.

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

10       At an adjudicatory hearing, a person classified as a youthful  
11 offender under RCW 13.40.110(4) is entitled to all the rights that by  
12 court rule, statute, and the state and federal constitutions are  
13 guaranteed to an offender who is similarly charged in adult court.

14       NEW SECTION. Sec. 27. A new section is added to chapter 13.40 RCW  
15 to read as follows:

16       (1) At a disposition hearing, the court shall impose both an adult  
17 and a juvenile sentence on a person classified as a youthful offender  
18 under RCW 13.40.110(4). The adult sentence shall be determined  
19 according to the sentencing reform act, chapter 9.94A RCW. The adult  
20 sentence shall be suspended conditioned upon the youthful offender's  
21 compliance with the conditions and terms of the juvenile sentence. The  
22 juvenile sentence shall be confinement with the department until age  
23 twenty-one.

24       (2) The court may, on application by the department, remand the  
25 youthful offender to the department of corrections to begin serving the  
26 offender's adult sentence if, at any time while the offender is serving  
27 the offender's juvenile sentence, the offender: Refuses to  
28 meaningfully participate in rehabilitative programs made available to  
29 the offender by the department; reoffends; or constitutes a serious  
30 threat to the physical safety of others.

31       (3) Unless previously remanded to the department of corrections to  
32 begin serving their adult sentence, the youthful offender shall, no  
33 sooner than three months before the offender's twenty-first birthday,  
34 appear before the sentencing court to determine compliance with the  
35 juvenile sentence.

36       (a) If the sentencing court finds that the youthful offender has  
37 meaningfully participated in the rehabilitative programs made available



1 by the department, has not reoffended, and has not posed a serious  
2 threat to the physical safety of others, the court shall release the  
3 youthful offender from the suspended adult sentence.

4 (b) Unless the youthful offender is released from the adult  
5 sentence as provided for in (a) of this subsection, the court shall  
6 remand the youthful offender to the department of corrections to begin  
7 serving the adult sentence.

8 (4) Only the youthful offender's adult sentence shall be considered  
9 when determining under chapter 9.94A RCW an appropriate sentence for  
10 future adult offenses.

11 **Sec. 28.** RCW 9.94A.130 and 1984 c 209 s 7 are each amended to read  
12 as follows:

13 The power to defer or suspend the imposition or execution of  
14 sentence is hereby abolished in respect to sentences prescribed for  
15 felonies committed after June 30, 1984, except for offenders sentenced  
16 under RCW 9.94A.120(~~((7)(a))~~)(8)(a), the special sexual offender  
17 sentencing alternative, or offenders sentenced under section 27 of this  
18 act, whose sentence may be suspended.

19 NEW SECTION. **Sec. 29.** A new section is added to chapter 13.40 RCW  
20 to read as follows:

21 If at any time a person classified as a youthful offender under RCW  
22 13.40.110(4) is remanded to begin serving an adult sentence, the  
23 youthful offender shall be given credit for all incarceration time  
24 served on the juvenile sentence.

25 NEW SECTION. **Sec. 30.** Sections 25 through 29 of this act apply  
26 only to offenses committed on or after the effective date of this act.

27 NEW SECTION. **Sec. 31.** The following acts or parts of acts are  
28 each repealed:

29 (1) RCW 13.40.025 and 1995 c 269 s 302, 1986 c 288 s 8, 1984 c 287  
30 s 11, & 1981 c 299 s 3;

31 (2) RCW 13.40.027 and 1993 c 415 s 9, 1992 c 205 s 103, 1989 c 407  
32 s 2, 1986 c 288 s 9, & 1981 c 299 s 4; and

33 (3) RCW 13.40.030 and 1989 c 407 s 3, 1985 c 73 s 1, 1983 c 191 s  
34 6, 1981 c 299 s 5, 1979 c 155 s 55, & 1977 ex.s. c 291 s 57.

1        NEW SECTION.    **Sec. 32.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 33.**    This act shall take effect June 30, 1996,  
6 except for section 19 of this act which is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and shall take  
9 effect immediately.

--- END ---