
SECOND SUBSTITUTE HOUSE BILL 1522

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Carrell, Sheahan, Conway, Mielke, Sherstad, Talcott, Zellinsky, Benson, Johnson, DeBolt, Mitchell, Lambert, Cooke, Clements, Kastama, Sheldon, Linville, Pennington, Honeyford, Delvin, Radcliff, Costa, Robertson, Mulliken, Smith, McMorris, Scott, Bush, Backlund, Ballasiotes, Sterk, Sump, Crouse, Wensman, Lisk, Dunn, Buck, Hickel, Reams, D. Schmidt, Mastin, Sullivan, Chandler, O'Brien, K. Schmidt, Skinner, Hankins, Dyer, Cairnes, Huff, McDonald, Alexander, Boldt, Wolfe, Keiser, Quall, Thompson and Van Luven)

Read first time 03/10/97.

1 AN ACT Relating to sentencing; amending RCW 9.94A.310 and
2 13.40.160; adding a new section to chapter 9.94A RCW; adding a new
3 section to chapter 13.40 RCW; creating a new section; and prescribing
4 penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
7 to read as follows:

8 (1)(a) A person convicted of a felony offense that is committed for
9 the benefit of, at the direction of, or in association with any
10 criminal street gang, with the intent to promote, further, or assist in
11 criminal conduct by gang members, shall, in addition and consecutive to
12 the punishment prescribed for the felony or attempted felony of which
13 he or she has been convicted, be punished by an additional term of two
14 years, except as provided in (b) of this subsection.

15 (b) If the court finds that there are aggravating factors, the
16 court may order the imposition of a sentence enhancement in excess of
17 two years, but not to exceed three years. If the court finds that
18 there are mitigating circumstances, the court may order the imposition
19 of a sentence enhancement that is less than two years, but not less

1 than one year. The court shall state the reasons for its choice of
2 sentence enhancements on the record at the time of the sentencing.

3 (c) The sentence enhancement imposed by the court under this
4 section is mandatory and shall not run concurrently with any other
5 sentence.

6 (2) As used in this section, "criminal street gang" means any
7 ongoing organization, association, or group of three or more persons,
8 whether formal or informal, having a common name or common identifying
9 sign or symbol, and having as one of its primary activities the
10 commission of one or more of the criminal acts enumerated in subsection
11 (3) of this section, and whose members individually or collectively
12 engage in or have engaged in a pattern of criminal gang activity.

13 (3) As used in this section, "pattern of criminal gang activity"
14 means the conviction or juvenile adjudication of two or more of the
15 following offenses, provided at least one of these offenses occurred
16 after the effective date of this act, and the last of those offenses
17 occurred within three years after a prior offense, and the offenses
18 were committed on separate occasions, or by two or more persons:

- 19 (a) Murder, as defined in RCW 9A.32.030 or 9A.32.050;
- 20 (b) Robbery, as defined in RCW 9A.56.200 or 9A.56.210;
- 21 (c) Kidnapping, as defined in RCW 9A.40.020 or 9A.40.030;
- 22 (d) Theft, as defined in RCW 9A.56.030, 9A.56.040, or 9A.56.050;
- 23 (e) Assault, as defined in RCW 9A.36.011 or 9A.36.021;
- 24 (f) Delivery or manufacture of controlled substances or possession
25 with intent to deliver or manufacture controlled substances under
26 chapter 69.50 RCW;
- 27 (g) Reckless endangerment, as defined in RCW 9A.36.045 or
28 9A.36.050;
- 29 (h) Arson, as defined in RCW 9A.48.020 or 9A.48.030;
- 30 (i) Intimidating a witness, as defined in RCW 9A.72.110;
- 31 (j) Taking a motor vehicle without permission, as defined in RCW
32 9A.56.070;
- 33 (k) Burglary, as defined in RCW 9A.52.020, 9A.52.025, or 9A.52.030;
- 34 (l) Rape, as defined in RCW 9A.44.040, 9A.44.050, or 9A.44.060;
- 35 (m) Money laundering, as defined in RCW 9A.83.020;
- 36 (n) Extortion, as defined in RCW 9A.56.120 or 9A.56.130;
- 37 (o) Malicious mischief, as defined in RCW 9A.48.070, 9A.48.080, or
38 9A.48.090;

1 (p) Unlawful possession of a firearm, as defined in RCW 9.41.040(1)
2 (a) or (b).

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.40 RCW
4 to read as follows:

5 (1) A juvenile adjudicated of a felony offense that is committed
6 for the benefit of, at the direction of, or in association with a
7 criminal street gang, as defined in section 1 of this act, with the
8 intent to promote, further, or assist in criminal conduct by gang
9 members, must receive a disposition enhancement as provided in
10 subsection (2) of this section.

11 (2)(a) The court must determine the standard range disposition for
12 the offense for which the respondent was adjudicated under RCW
13 13.40.160. One hundred five days must be added to the entire standard
14 range disposition of confinement, except as provided in (b) of this
15 subsection.

16 (b) If the court finds that there are aggravating circumstances,
17 the court may order the imposition of a disposition enhancement that is
18 in excess of one hundred five days, but not to exceed one hundred
19 twenty days. If the court finds that there are mitigating
20 circumstances, the court may impose a disposition enhancement of less
21 than one hundred five days, but not less than ninety days. The court
22 must state the reasons for its choice of sentence enhancements on the
23 record at the time of the disposition.

24 (3) Option B of schedule D-2, RCW 13.40.0357, is not available for
25 middle offenders who receive a disposition under this section. When a
26 disposition under this section would effectuate a manifest injustice,
27 the court may impose another disposition. When a judge finds a
28 manifest injustice and imposes a disposition of confinement exceeding
29 thirty days, the judge must commit the juvenile to the maximum term,
30 and the provisions of RCW 13.40.030(2) shall be used to determine the
31 range. When a judge finds a manifest injustice and imposes a
32 disposition of confinement less than thirty days, the disposition may
33 be comprised of confinement, community supervision, or both.

34 (4) Any term of confinement ordered under this section must run
35 consecutively to any term of confinement imposed in the same
36 disposition for other offenses.

1 **Sec. 3.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read
 2 as follows:

3 (1)

TABLE 1

Sentencing Grid

SERIOUSNESS

SCORE

OFFENDER SCORE

9 or
more

0 1 2 3 4 5 6 7 8

XV Life Sentence without Parole/Death Penalty

XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y
 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-
 320 333 347 361 374 388 416 450 493 548

XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y
 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-
 164 178 192 205 219 233 260 288 342 397

XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m
 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-
 123 136 147 160 171 184 216 236 277 318

XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m
 78- 86- 95- 102- 111- 120- 146- 159- 185- 210-
 102 114 125 136 147 158 194 211 245 280

X 5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m
 51- 57- 62- 67- 72- 77- 98- 108- 129- 149-
 68 75 82 89 96 102 130 144 171 198

IX 3y 3y6m 4y 4y6m 5y 5y6m 7y6m 8y6m 10y6m 12y6m
 31- 36- 41- 46- 51- 57- 77- 87- 108- 129-
 41 48 54 61 68 75 102 116 144 171

1	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
2		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
3		27	34	41	48	54	61	89	102	116	144
4											
5	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
6		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
7		20	27	34	41	48	54	75	89	102	116
8											
9	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
10		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
11		14	20	27	34	41	48	61	75	89	102
12											
13	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
14		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
15		12	14	17	20	29	43	54	68	82	96
16											
17	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
18		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
19		9	12	14	17	20	29	43	57	70	84
20											
21	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
22		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
23		3	8	12	12	16	22	29	43	57	68
24											
25	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
26		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
27		Days	6	9	12	14	18	22	29	43	57
28											
29	I			3m	4m	5m	8m	13m	16m	20m	2y2m
30		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
31		Days	Days	5	6	8	12	14	18	22	29
32											

33 NOTE: Numbers in the first horizontal row of each seriousness category
34 represent sentencing midpoints in years(y) and months(m). Numbers in
35 the second and third rows represent presumptive sentencing ranges in
36 months, or in days if so designated. 12+ equals one year and one day.

37 (2) For persons convicted of the anticipatory offenses of criminal
38 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
39 presumptive sentence is determined by locating the sentencing grid

1 sentence range defined by the appropriate offender score and the
2 seriousness level of the completed crime, and multiplying the range by
3 75 percent.

4 (3) The following additional times shall be added to the
5 presumptive sentence for felony crimes committed after July 23, 1995,
6 if the offender or an accomplice was armed with a firearm as defined in
7 RCW 9.41.010 and the offender is being sentenced for one of the crimes
8 listed in this subsection as eligible for any firearm enhancements
9 based on the classification of the completed felony crime. If the
10 offender or an accomplice was armed with a firearm as defined in RCW
11 9.41.010 and the offender is being sentenced for an anticipatory
12 offense under chapter 9A.28 RCW to commit one of the crimes listed in
13 this subsection as eligible for any firearm enhancements, the following
14 additional times shall be added to the presumptive sentence determined
15 under subsection (2) of this section based on the felony crime of
16 conviction as classified under RCW 9A.28.020:

17 (a) Five years for any felony defined under any law as a class A
18 felony or with a maximum sentence of at least twenty years, or both,
19 and not covered under (f) of this subsection.

20 (b) Three years for any felony defined under any law as a class B
21 felony or with a maximum sentence of ten years, or both, and not
22 covered under (f) of this subsection.

23 (c) Eighteen months for any felony defined under any law as a
24 class C felony or with a maximum sentence of five years, or both, and
25 not covered under (f) of this subsection.

26 (d) If the offender is being sentenced for any firearm
27 enhancements under (a), (b), and/or (c) of this subsection and the
28 offender has previously been sentenced for any deadly weapon
29 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
30 subsection or subsection (4)(a), (b), and/or (c) of this section, or
31 both, any and all firearm enhancements under this subsection shall be
32 twice the amount of the enhancement listed.

33 (e) Notwithstanding any other provision of law, any and all
34 firearm enhancements under this section are mandatory, shall be served
35 in total confinement, and shall not run concurrently with any other
36 sentencing provisions.

37 (f) The firearm enhancements in this section shall apply to all
38 felony crimes except the following: Possession of a machine gun,
39 possessing a stolen firearm, reckless endangerment in the first degree,

1 theft of a firearm, unlawful possession of a firearm in the first and
2 second degree, and use of a machine gun in a felony.

3 (g) If the presumptive sentence under this section exceeds the
4 statutory maximum for the offense, the statutory maximum sentence shall
5 be the presumptive sentence unless the offender is a persistent
6 offender as defined in RCW 9.94A.030.

7 (4) The following additional times shall be added to the
8 presumptive sentence for felony crimes committed after July 23, 1995,
9 if the offender or an accomplice was armed with a deadly weapon as
10 defined in this chapter other than a firearm as defined in RCW 9.41.010
11 and the offender is being sentenced for one of the crimes listed in
12 this subsection as eligible for any deadly weapon enhancements based on
13 the classification of the completed felony crime. If the offender or
14 an accomplice was armed with a deadly weapon other than a firearm as
15 defined in RCW 9.41.010 and the offender is being sentenced for an
16 anticipatory offense under chapter 9A.28 RCW to commit one of the
17 crimes listed in this subsection as eligible for any deadly weapon
18 enhancements, the following additional times shall be added to the
19 presumptive sentence determined under subsection (2) of this section
20 based on the felony crime of conviction as classified under RCW
21 9A.28.020:

22 (a) Two years for any felony defined under any law as a class A
23 felony or with a maximum sentence of at least twenty years, or both,
24 and not covered under (f) of this subsection.

25 (b) One year for any felony defined under any law as a class B
26 felony or with a maximum sentence of ten years, or both, and not
27 covered under (f) of this subsection.

28 (c) Six months for any felony defined under any law as a class C
29 felony or with a maximum sentence of five years, or both, and not
30 covered under (f) of this subsection.

31 (d) If the offender is being sentenced under (a), (b), and/or (c)
32 of this subsection for any deadly weapon enhancements and the offender
33 has previously been sentenced for any deadly weapon enhancements after
34 July 23, 1995, under (a), (b), and/or (c) of this subsection or
35 subsection (3)(a), (b), and/or (c) of this section, or both, any and
36 all deadly weapon enhancements under this subsection shall be twice the
37 amount of the enhancement listed.

38 (e) Notwithstanding any other provision of law, any and all deadly
39 weapon enhancements under this section are mandatory, shall be served

1 in total confinement, and shall not run concurrently with any other
2 sentencing provisions.

3 (f) The deadly weapon enhancements in this section shall apply to
4 all felony crimes except the following: Possession of a machine gun,
5 possessing a stolen firearm, reckless endangerment in the first degree,
6 theft of a firearm, unlawful possession of a firearm in the first and
7 second degree, and use of a machine gun in a felony.

8 (g) If the presumptive sentence under this section exceeds the
9 statutory maximum for the offense, the statutory maximum sentence shall
10 be the presumptive sentence unless the offender is a persistent
11 offender as defined in RCW 9.94A.030.

12 (5) The following additional times shall be added to the
13 presumptive sentence if the offender or an accomplice committed the
14 offense while in a county jail or state correctional facility as that
15 term is defined in this chapter and the offender is being sentenced for
16 one of the crimes listed in this subsection. If the offender or an
17 accomplice committed one of the crimes listed in this subsection while
18 in a county jail or state correctional facility as that term is defined
19 in this chapter, and the offender is being sentenced for an
20 anticipatory offense under chapter 9A.28 RCW to commit one of the
21 crimes listed in this subsection, the following additional times shall
22 be added to the presumptive sentence determined under subsection (2) of
23 this section:

24 (a) Eighteen months for offenses committed under RCW
25 69.50.401(a)(1) (i) or (ii) or 69.50.410;

26 (b) Fifteen months for offenses committed under RCW
27 69.50.401(a)(1) (iii), (iv), and (v);

28 (c) Twelve months for offenses committed under RCW 69.50.401(d).

29 For the purposes of this subsection, all of the real property of
30 a state correctional facility or county jail shall be deemed to be part
31 of that facility or county jail.

32 (6) An additional twenty-four months shall be added to the
33 presumptive sentence for any ranked offense involving a violation of
34 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

35 (7) An additional one to three years shall be added to the
36 presumptive sentence for any felony offense committed for the benefit
37 of, at the direction of, or in association with a criminal street gang,
38 with the intent to promote, further, or assist in criminal conduct by
39 gang members, as provided in section 1 of this act.

1 **Sec. 4.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read
2 as follows:

3 (1) When the respondent is found to be a serious offender, the
4 court shall commit the offender to the department for the standard
5 range of disposition for the offense, as indicated in option A of
6 schedule D-3, RCW 13.40.0357 except as provided in subsections (5)
7 (~~and~~), (6), and (7) of this section.

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

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

23 (2) Where the respondent is found to be a minor or first offender,
24 the court shall order that the respondent serve a term of community
25 supervision as indicated in option A or option B of schedule D-1, RCW
26 13.40.0357 except as provided in subsections (5) and (6) of this
27 section. If the court determines that a disposition of community
28 supervision would effectuate a manifest injustice the court may impose
29 another disposition under option C of schedule D-1, RCW 13.40.0357.
30 Except as provided in subsection (5) of this section, a disposition
31 other than a community supervision may be imposed only after the court
32 enters reasons upon which it bases its conclusions that imposition of
33 community supervision would effectuate a manifest injustice. When a
34 judge finds a manifest injustice and imposes a sentence of confinement
35 exceeding thirty days, the court shall sentence the juvenile to a
36 maximum term, and the provisions of RCW 13.40.030(2) shall be used to
37 determine the range. The court's finding of manifest injustice shall
38 be supported by clear and convincing evidence.

1 Except for disposition of community supervision or a disposition
2 imposed pursuant to subsection (5) of this section, a disposition may
3 be appealed as provided in RCW 13.40.230 by the state or the
4 respondent. A disposition of community supervision or a disposition
5 imposed pursuant to subsection (5) of this section may not be appealed
6 under RCW 13.40.230.

7 (3) Where a respondent is found to have committed an offense for
8 which the respondent declined to enter into a diversion agreement, the
9 court shall impose a term of community supervision limited to the
10 conditions allowed in a diversion agreement as provided in RCW
11 13.40.080(2).

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

13 (a) The court shall impose a determinate disposition within the
14 standard range(s) for such offense, as indicated in option A of
15 schedule D-2, RCW 13.40.0357 except as provided in subsections (5)
16 (~~and~~), (6), and (7) of this section. If the standard range includes
17 a term of confinement exceeding thirty days, commitment shall be to the
18 department for the standard range of confinement; or

19 (b) If the middle offender has less than 110 points, the court
20 shall impose a determinate disposition of community supervision and/or
21 up to thirty days confinement, as indicated in option B of schedule D-
22 2, RCW 13.40.0357 in which case, if confinement has been imposed, the
23 court shall state either aggravating or mitigating factors as set forth
24 in RCW 13.40.150. If the middle offender has 110 points or more, the
25 court may impose a disposition under option A and may suspend the
26 disposition on the condition that the offender serve up to thirty days
27 of confinement and follow all conditions of community supervision. If
28 the offender violates any condition of the disposition including
29 conditions of a probation bond, the court may impose sanctions pursuant
30 to RCW 13.40.200 or may revoke the suspension and order execution of
31 the disposition. The court shall give credit for any confinement time
32 previously served if that confinement was for the offense for which the
33 suspension is being revoked.

34 (c) Only if the court concludes, and enters reasons for its
35 conclusions, that disposition as provided in subsection (4)(a) or (b)
36 of this section would effectuate a manifest injustice, the court shall
37 sentence the juvenile to a maximum term, and the provisions of RCW
38 13.40.030(2) shall be used to determine the range. The court's finding

1 of manifest injustice shall be supported by clear and convincing
2 evidence.

3 (d) A disposition pursuant to subsection (4)(c) of this section is
4 appealable under RCW 13.40.230 by the state or the respondent. A
5 disposition pursuant to subsection (4)(a) or (b) of this section is not
6 appealable under RCW 13.40.230.

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

13 The report of the examination shall include at a minimum the
14 following: The respondent's version of the facts and the official
15 version of the facts, the respondent's offense history, an assessment
16 of problems in addition to alleged deviant behaviors, the respondent's
17 social, educational, and employment situation, and other evaluation
18 measures used. The report shall set forth the sources of the
19 evaluator's information.

20 The examiner shall assess and report regarding the respondent's
21 amenability to treatment and relative risk to the community. A
22 proposed treatment plan shall be provided and shall include, at a
23 minimum:

24 (a)(i) Frequency and type of contact between the offender and
25 therapist;

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

28 (iii) Monitoring plans, including any requirements regarding
29 living conditions, lifestyle requirements, and monitoring by family
30 members, legal guardians, or others;

31 (iv) Anticipated length of treatment; and

32 (v) Recommended crime-related prohibitions.

33 The court on its own motion may order, or on a motion by the state
34 shall order, a second examination regarding the offender's amenability
35 to treatment. The evaluator shall be selected by the party making the
36 motion. The defendant shall pay the cost of any second examination
37 ordered unless the court finds the defendant to be indigent in which
38 case the state shall pay the cost.

1 After receipt of reports of the examination, the court shall then
2 consider whether the offender and the community will benefit from use
3 of this special sex offender disposition alternative and consider the
4 victim's opinion whether the offender should receive a treatment
5 disposition under this section. If the court determines that this
6 special sex offender disposition alternative is appropriate, then the
7 court shall impose a determinate disposition within the standard range
8 for the offense, and the court may suspend the execution of the
9 disposition and place the offender on community supervision for up to
10 two years. As a condition of the suspended disposition, the court may
11 impose the conditions of community supervision and other conditions,
12 including up to thirty days of confinement and requirements that the
13 offender do any one or more of the following:

14 (b)(i) Devote time to a specific education, employment, or
15 occupation;

16 (ii) Undergo available outpatient sex offender treatment for up to
17 two years, or inpatient sex offender treatment not to exceed the
18 standard range of confinement for that offense. A community mental
19 health center may not be used for such treatment unless it has an
20 appropriate program designed for sex offender treatment. The
21 respondent shall not change sex offender treatment providers or
22 treatment conditions without first notifying the prosecutor, the
23 probation counselor, and the court, and shall not change providers
24 without court approval after a hearing if the prosecutor or probation
25 counselor object to the change;

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

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

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

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

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

37 (viii) Comply with the conditions of any court-ordered probation
38 bond.

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

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

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

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

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

38 (6) RCW 13.40.193 shall govern the disposition of any juvenile
39 adjudicated of possessing a firearm in violation of RCW

1 9.41.040(1)((+e+)) (b)(iii) or any crime in which a special finding is
2 entered that the juvenile was armed with a firearm.

3 (7) Section 2 of this act governs the disposition of any juvenile
4 adjudicated of a felony offense committed for the benefit of, at the
5 direction of, or in association with a criminal street gang, with the
6 intent of promoting, furthering, or assisting in criminal conduct by
7 gang members.

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

12 ((+8+)) (9) Except as provided for in subsection (4)(b) or (5) of
13 this section or RCW 13.40.125, the court shall not suspend or defer the
14 imposition or the execution of the disposition.

15 ((+9+)) (10) In no case shall the term of confinement imposed by
16 the court at disposition exceed that to which an adult could be
17 subjected for the same offense.

18 NEW SECTION. Sec. 5. If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 1997, in the omnibus appropriations act, this act
21 is null and void.

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