

CERTIFICATION OF ENROLLMENT
ENGROSSED THIRD SUBSTITUTE HOUSE BILL 3900

55th Legislature
1997 Regular Session

Passed by the House April 26, 1997
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 26, 1997
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED THIRD SUBSTITUTE HOUSE BILL 3900** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED THIRD SUBSTITUTE HOUSE BILL 3900

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Sheahan, Ballasiotes, Schoesler, Bush, Honeyford, Carrell, Chandler, Mitchell, Clements, Huff, Thompson, Hankins, Mulliken, Koster, Carlson, Cairnes, Cooke, Johnson, Skinner, Mastin, Smith, Crouse, Benson, Alexander, Talcott, Robertson, Lisk, Zellinsky, Boldt, Delvin, Sterk, Lambert, Hickel, Backlund and Pennington)

Read first time 03/10/97 (Introduced with Senate Sponsors).

1 AN ACT Relating to offenders; amending RCW 5.60.060, 9.94A.040,
2 13.04.011, 13.40.010, 13.40.0357, 13.40.0357, 13.40.040, 13.40.045,
3 13.40.050, 13.40.060, 13.40.070, 13.40.077, 13.40.100, 13.40.110,
4 13.40.130, 13.40.135, 13.40.150, 13.40.160, 13.40.190, 13.40.193,
5 13.40.200, 13.40.210, 13.40.230, 13.40.250, 13.40.265, 13.40.320,
6 13.50.010, 13.50.050, 72.01.410, 72.09.460, 9A.36.045, 9A.36.050,
7 9.41.010, 9.41.040, 9.94A.103, 9.94A.105, 9.94A.310, 10.99.020,
8 10.99.040, 10.99.050, 82.44.110, 69.50.520, and 13.40.080; reenacting
9 and amending RCW 9.94A.030, 9.94A.120, 9.94A.360, 13.04.030, 13.40.020,
10 13.40.020, 9.94A.320, and 9A.46.060; adding new sections to chapter
11 13.40 RCW; adding a new section to chapter 70.96A RCW; adding a new
12 section to chapter 72.01 RCW; adding a new section to chapter 43.121
13 RCW; creating new sections; repealing RCW 9.94A.045, 13.40.025,
14 13.40.075, 13.40.125, and 13.40.0354; prescribing penalties; providing
15 effective dates; providing expiration dates; and declaring an
16 emergency.

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

18 **Sec. 1.** RCW 5.60.060 and 1996 c 156 s 1 are each amended to read
19 as follows:

1 (1) A husband shall not be examined for or against his wife,
2 without the consent of the wife, nor a wife for or against her husband
3 without the consent of the husband; nor can either during marriage or
4 afterward, be without the consent of the other, examined as to any
5 communication made by one to the other during marriage. But this
6 exception shall not apply to a civil action or proceeding by one
7 against the other, nor to a criminal action or proceeding for a crime
8 committed by one against the other, nor to a criminal action or
9 proceeding against a spouse if the marriage occurred subsequent to the
10 filing of formal charges against the defendant, nor to a criminal
11 action or proceeding for a crime committed by said husband or wife
12 against any child of whom said husband or wife is the parent or
13 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
14 PROVIDED, That the spouse of a person sought to be detained under
15 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
16 be so informed by the court prior to being called as a witness.

17 (2) (a) An attorney or counselor shall not, without the consent of
18 his or her client, be examined as to any communication made by the
19 client to him or her, or his or her advice given thereon in the course
20 of professional employment.

21 (b) A parent or guardian of a minor child arrested on a criminal
22 charge may not be examined as to a communication between the child and
23 his or her attorney if the communication was made in the presence of
24 the parent or guardian. This privilege does not extend to
25 communications made prior to the arrest.

26 (3) A member of the clergy or a priest shall not, without the
27 consent of a person making the confession, be examined as to any
28 confession made to him or her in his or her professional character, in
29 the course of discipline enjoined by the church to which he or she
30 belongs.

31 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,
32 a physician or surgeon or osteopathic physician or surgeon shall not,
33 without the consent of his or her patient, be examined in a civil
34 action as to any information acquired in attending such patient, which
35 was necessary to enable him or her to prescribe or act for the patient,
36 except as follows:

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

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

7 (5) A public officer shall not be examined as a witness as to
8 communications made to him or her in official confidence, when the
9 public interest would suffer by the disclosure.

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

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

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

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

34 (7) A sexual assault advocate may not, without the consent of the
35 victim, be examined as to any communication made by the victim to the
36 sexual assault advocate.

37 (a) For purposes of this section, "sexual assault advocate" means
38 the employee or volunteer from a rape crisis center, victim assistance
39 unit, program, or association, that provides information, medical or

1 legal advocacy, counseling, or support to victims of sexual assault,
2 who is designated by the victim to accompany the victim to the hospital
3 or other health care facility and to proceedings concerning the alleged
4 assault, including police and prosecution interviews and court
5 proceedings.

6 (b) A sexual assault advocate may disclose a confidential
7 communication without the consent of the victim if failure to disclose
8 is likely to result in a clear, imminent risk of serious physical
9 injury or death of the victim or another person. Any sexual assault
10 advocate participating in good faith in the disclosing of records and
11 communications under this section shall have immunity from any
12 liability, civil, criminal, or otherwise, that might result from the
13 action. In any proceeding, civil or criminal, arising out of a
14 disclosure under this section, the good faith of the sexual assault
15 advocate who disclosed the confidential communication shall be
16 presumed.

17 **Sec. 2.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are
18 each reenacted and amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Collect," or any derivative thereof, "collect and remit," or
22 "collect and deliver," when used with reference to the department of
23 corrections, means that the department is responsible for monitoring
24 and enforcing the offender's sentence with regard to the legal
25 financial obligation, receiving payment thereof from the offender, and,
26 consistent with current law, delivering daily the entire payment to the
27 superior court clerk without depositing it in a departmental account.

28 (2) "Commission" means the sentencing guidelines commission.

29 (3) "Community corrections officer" means an employee of the
30 department who is responsible for carrying out specific duties in
31 supervision of sentenced offenders and monitoring of sentence
32 conditions.

33 (4) "Community custody" means that portion of an inmate's sentence
34 of confinement in lieu of earned early release time or imposed pursuant
35 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
36 controls placed on the inmate's movement and activities by the
37 department of corrections.

1 (5) "Community placement" means that period during which the
2 offender is subject to the conditions of community custody and/or
3 postrelease supervision, which begins either upon completion of the
4 term of confinement (postrelease supervision) or at such time as the
5 offender is transferred to community custody in lieu of earned early
6 release. Community placement may consist of entirely community
7 custody, entirely postrelease supervision, or a combination of the two.

8 (6) "Community service" means compulsory service, without
9 compensation, performed for the benefit of the community by the
10 offender.

11 (7) "Community supervision" means a period of time during which a
12 convicted offender is subject to crime-related prohibitions and other
13 sentence conditions imposed by a court pursuant to this chapter or RCW
14 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
15 may include crime-related prohibitions and other conditions imposed
16 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
17 for out-of-state supervision of parolees and probationers, RCW
18 9.95.270, community supervision is the functional equivalent of
19 probation and should be considered the same as probation by other
20 states.

21 (8) "Confinement" means total or partial confinement as defined in
22 this section.

23 (9) "Conviction" means an adjudication of guilt pursuant to Titles
24 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
25 acceptance of a plea of guilty.

26 (10) "Court-ordered legal financial obligation" means a sum of
27 money that is ordered by a superior court of the state of Washington
28 for legal financial obligations which may include restitution to the
29 victim, statutorily imposed crime victims' compensation fees as
30 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
31 drug funds, court-appointed attorneys' fees, and costs of defense,
32 fines, and any other financial obligation that is assessed to the
33 offender as a result of a felony conviction. Upon conviction for
34 vehicular assault while under the influence of intoxicating liquor or
35 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
36 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
37 legal financial obligations may also include payment to a public agency
38 of the expense of an emergency response to the incident resulting in
39 the conviction, subject to the provisions in RCW 38.52.430.

1 (11) "Crime-related prohibition" means an order of a court
2 prohibiting conduct that directly relates to the circumstances of the
3 crime for which the offender has been convicted, and shall not be
4 construed to mean orders directing an offender affirmatively to
5 participate in rehabilitative programs or to otherwise perform
6 affirmative conduct.

7 (12) ~~((a))~~ "Criminal history" means the list of a defendant's
8 prior convictions and juvenile adjudications, whether in this state, in
9 federal court, or elsewhere. The history shall include, where known,
10 for each conviction ~~((i))~~ (a) whether the defendant has been placed
11 on probation and the length and terms thereof; and ~~((ii))~~ (b) whether
12 the defendant has been incarcerated and the length of incarceration.

13 ~~((b) "Criminal history" shall always include juvenile convictions
14 for sex offenses and serious violent offenses and shall also include a
15 defendant's other prior convictions in juvenile court if: (i) The
16 conviction was for an offense which is a felony or a serious traffic
17 offense and is criminal history as defined in RCW 13.40.020(9); (ii)
18 the defendant was fifteen years of age or older at the time the offense
19 was committed; and (iii) with respect to prior juvenile class B and C
20 felonies or serious traffic offenses, the defendant was less than
21 twenty three years of age at the time the offense for which he or she
22 is being sentenced was committed.)~~

23 (13) "Day fine" means a fine imposed by the sentencing judge that
24 equals the difference between the offender's net daily income and the
25 reasonable obligations that the offender has for the support of the
26 offender and any dependents.

27 (14) "Day reporting" means a program of enhanced supervision
28 designed to monitor the defendant's daily activities and compliance
29 with sentence conditions, and in which the defendant is required to
30 report daily to a specific location designated by the department or the
31 sentencing judge.

32 (15) "Department" means the department of corrections.

33 (16) "Determinate sentence" means a sentence that states with
34 exactitude the number of actual years, months, or days of total
35 confinement, of partial confinement, of community supervision, the
36 number of actual hours or days of community service work, or dollars or
37 terms of a legal financial obligation. The fact that an offender
38 through "earned early release" can reduce the actual period of

1 confinement shall not affect the classification of the sentence as a
2 determinate sentence.

3 (17) "Disposable earnings" means that part of the earnings of an
4 individual remaining after the deduction from those earnings of any
5 amount required by law to be withheld. For the purposes of this
6 definition, "earnings" means compensation paid or payable for personal
7 services, whether denominated as wages, salary, commission, bonuses, or
8 otherwise, and, notwithstanding any other provision of law making the
9 payments exempt from garnishment, attachment, or other process to
10 satisfy a court-ordered legal financial obligation, specifically
11 includes periodic payments pursuant to pension or retirement programs,
12 or insurance policies of any type, but does not include payments made
13 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
14 or Title 74 RCW.

15 (18) "Drug offense" means:

16 (a) Any felony violation of chapter 69.50 RCW except possession of
17 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
18 controlled substance (RCW 69.50.403);

19 (b) Any offense defined as a felony under federal law that relates
20 to the possession, manufacture, distribution, or transportation of a
21 controlled substance; or

22 (c) Any out-of-state conviction for an offense that under the laws
23 of this state would be a felony classified as a drug offense under (a)
24 of this subsection.

25 (19) "Escape" means:

26 (a) Escape in the first degree (RCW 9A.76.110), escape in the
27 second degree (RCW 9A.76.120), willful failure to return from furlough
28 (RCW 72.66.060), willful failure to return from work release (RCW
29 72.65.070), or willful failure to be available for supervision by the
30 department while in community custody (RCW 72.09.310); or

31 (b) Any federal or out-of-state conviction for an offense that
32 under the laws of this state would be a felony classified as an escape
33 under (a) of this subsection.

34 (20) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
36 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
37 and-run injury-accident (RCW 46.52.020(4)); or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a felony
3 traffic offense under (a) of this subsection.

4 (21) "Fines" means the requirement that the offender pay a specific
5 sum of money over a specific period of time to the court.

6 (22) ~~((a))~~ "First-time offender" means any person who is convicted
7 of a felony ~~((i))~~ (a) not classified as a violent offense or a sex
8 offense under this chapter, or ~~((ii))~~ (b) that is not the
9 manufacture, delivery, or possession with intent to manufacture or
10 deliver a controlled substance classified in schedule I or II that is
11 a narcotic drug, nor the manufacture, delivery, or possession with
12 intent to deliver methamphetamine, its salts, isomers, and salts of its
13 isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit
14 of any controlled substance or counterfeit substance classified in
15 schedule I, RCW 69.50.204, except leaves and flowering tops of
16 marihuana, ~~((and except as provided in (b) of this subsection,))~~ who
17 previously has never been convicted of a felony in this state, federal
18 court, or another state, and who has never participated in a program of
19 deferred prosecution for a felony offense.

20 ~~((b) For purposes of (a) of this subsection, a juvenile
21 adjudication for an offense committed before the age of fifteen years
22 is not a previous felony conviction except for adjudications of sex
23 offenses and serious violent offenses.))~~

24 (23) "Most serious offense" means any of the following felonies or
25 a felony attempt to commit any of the following felonies, as now
26 existing or hereafter amended:

27 (a) Any felony defined under any law as a class A felony or
28 criminal solicitation of or criminal conspiracy to commit a class A
29 felony;

30 (b) Assault in the second degree;

31 (c) Assault of a child in the second degree;

32 (d) Child molestation in the second degree;

33 (e) Controlled substance homicide;

34 (f) Extortion in the first degree;

35 (g) Incest when committed against a child under age fourteen;

36 (h) Indecent liberties;

37 (i) Kidnapping in the second degree;

38 (j) Leading organized crime;

39 (k) Manslaughter in the first degree;

1 (l) Manslaughter in the second degree;
2 (m) Promoting prostitution in the first degree;
3 (n) Rape in the third degree;
4 (o) Robbery in the second degree;
5 (p) Sexual exploitation;
6 (q) Vehicular assault;
7 (r) Vehicular homicide, when proximately caused by the driving of
8 any vehicle by any person while under the influence of intoxicating
9 liquor or any drug as defined by RCW 46.61.502, or by the operation of
10 any vehicle in a reckless manner;
11 (s) Any other class B felony offense with a finding of sexual
12 motivation, as "sexual motivation" is defined under this section;
13 (t) Any other felony with a deadly weapon verdict under RCW
14 9.94A.125;
15 (u) Any felony offense in effect at any time prior to December 2,
16 1993, that is comparable to a most serious offense under this
17 subsection, or any federal or out-of-state conviction for an offense
18 that under the laws of this state would be a felony classified as a
19 most serious offense under this subsection.
20 (24) "Nonviolent offense" means an offense which is not a violent
21 offense.
22 (25) "Offender" means a person who has committed a felony
23 established by state law and is eighteen years of age or older or is
24 less than eighteen years of age but whose case is under superior court
25 jurisdiction under RCW 13.04.030 or has been transferred by the
26 appropriate juvenile court to a criminal court pursuant to RCW
27 13.40.110. Throughout this chapter, the terms "offender" and
28 "defendant" are used interchangeably.
29 (26) "Partial confinement" means confinement for no more than one
30 year in a facility or institution operated or utilized under contract
31 by the state or any other unit of government, or, if home detention or
32 work crew has been ordered by the court, in an approved residence, for
33 a substantial portion of each day with the balance of the day spent in
34 the community. Partial confinement includes work release, home
35 detention, work crew, and a combination of work crew and home detention
36 as defined in this section.
37 (27) "Persistent offender" is an offender who:
38 (a) (i) Has been convicted in this state of any felony considered a
39 most serious offense; and

1 (ii) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.360; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted; or

9 (b) (i) Has been convicted of (A) rape in the first degree, rape in
10 the second degree, or indecent liberties by forcible compulsion; (B)
11 murder in the first degree, murder in the second degree, kidnapping in
12 the first degree, kidnapping in the second degree, assault in the first
13 degree, assault in the second degree, or burglary in the first degree,
14 with a finding of sexual motivation; or (C) an attempt to commit any
15 crime listed in this subsection (27) (b) (i); and

16 (ii) Has, before the commission of the offense under (b) (i) of this
17 subsection, been convicted as an offender on at least one occasion,
18 whether in this state or elsewhere, of an offense listed in (b) (i) of
19 this subsection.

20 (28) "Postrelease supervision" is that portion of an offender's
21 community placement that is not community custody.

22 (29) "Restitution" means the requirement that the offender pay a
23 specific sum of money over a specific period of time to the court as
24 payment of damages. The sum may include both public and private costs.
25 The imposition of a restitution order does not preclude civil redress.

26 (30) "Serious traffic offense" means:

27 (a) Driving while under the influence of intoxicating liquor or any
28 drug (RCW 46.61.502), actual physical control while under the influence
29 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
30 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
31 or

32 (b) Any federal, out-of-state, county, or municipal conviction for
33 an offense that under the laws of this state would be classified as a
34 serious traffic offense under (a) of this subsection.

35 (31) "Serious violent offense" is a subcategory of violent offense
36 and means:

37 (a) Murder in the first degree, homicide by abuse, murder in the
38 second degree, assault in the first degree, kidnapping in the first
39 degree, or rape in the first degree, assault of a child in the first

1 degree, or an attempt, criminal solicitation, or criminal conspiracy to
2 commit one of these felonies; or

3 (b) Any federal or out-of-state conviction for an offense that
4 under the laws of this state would be a felony classified as a serious
5 violent offense under (a) of this subsection.

6 (32) "Sentence range" means the sentencing court's discretionary
7 range in imposing a nonappealable sentence.

8 (33) "Sex offense" means:

9 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
10 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
11 criminal attempt, criminal solicitation, or criminal conspiracy to
12 commit such crimes;

13 (b) A felony with a finding of sexual motivation under RCW
14 9.94A.127 or 13.40.135; or

15 (c) Any federal or out-of-state conviction for an offense that
16 under the laws of this state would be a felony classified as a sex
17 offense under (a) of this subsection.

18 (34) "Sexual motivation" means that one of the purposes for which
19 the defendant committed the crime was for the purpose of his or her
20 sexual gratification.

21 (35) "Total confinement" means confinement inside the physical
22 boundaries of a facility or institution operated or utilized under
23 contract by the state or any other unit of government for twenty-four
24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

25 (36) "Transition training" means written and verbal instructions
26 and assistance provided by the department to the offender during the
27 two weeks prior to the offender's successful completion of the work
28 ethic camp program. The transition training shall include instructions
29 in the offender's requirements and obligations during the offender's
30 period of community custody.

31 (37) "Victim" means any person who has sustained emotional,
32 psychological, physical, or financial injury to person or property as
33 a direct result of the crime charged.

34 (38) "Violent offense" means:

35 (a) Any of the following felonies, as now existing or hereafter
36 amended: Any felony defined under any law as a class A felony or an
37 attempt to commit a class A felony, criminal solicitation of or
38 criminal conspiracy to commit a class A felony, manslaughter in the
39 first degree, manslaughter in the second degree, indecent liberties if

1 committed by forcible compulsion, kidnapping in the second degree,
2 arson in the second degree, assault in the second degree, assault of a
3 child in the second degree, extortion in the first degree, robbery in
4 the second degree, drive-by shooting, vehicular assault, and vehicular
5 homicide, when proximately caused by the driving of any vehicle by any
6 person while under the influence of intoxicating liquor or any drug as
7 defined by RCW 46.61.502, or by the operation of any vehicle in a
8 reckless manner;

9 (b) Any conviction for a felony offense in effect at any time prior
10 to July 1, 1976, that is comparable to a felony classified as a violent
11 offense in (a) of this subsection; and

12 (c) Any federal or out-of-state conviction for an offense that
13 under the laws of this state would be a felony classified as a violent
14 offense under (a) or (b) of this subsection.

15 (39) "Work crew" means a program of partial confinement consisting
16 of civic improvement tasks for the benefit of the community of not less
17 than thirty-five hours per week that complies with RCW 9.94A.135. The
18 civic improvement tasks shall have minimal negative impact on existing
19 private industries or the labor force in the county where the service
20 or labor is performed. The civic improvement tasks shall not affect
21 employment opportunities for people with developmental disabilities
22 contracted through sheltered workshops as defined in RCW 82.04.385.
23 Only those offenders sentenced to a facility operated or utilized under
24 contract by a county or the state are eligible to participate on a work
25 crew. Offenders sentenced for a sex offense as defined in subsection
26 (33) of this section are not eligible for the work crew program.

27 (40) "Work ethic camp" means an alternative incarceration program
28 designed to reduce recidivism and lower the cost of corrections by
29 requiring offenders to complete a comprehensive array of real-world job
30 and vocational experiences, character-building work ethics training,
31 life management skills development, substance abuse rehabilitation,
32 counseling, literacy training, and basic adult education.

33 (41) "Work release" means a program of partial confinement
34 available to offenders who are employed or engaged as a student in a
35 regular course of study at school. Participation in work release shall
36 be conditioned upon the offender attending work or school at regularly
37 defined hours and abiding by the rules of the work release facility.

1 (42) "Home detention" means a program of partial confinement
2 available to offenders wherein the offender is confined in a private
3 residence subject to electronic surveillance.

4 **Sec. 3.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read
5 as follows:

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

8 (2) The legislature finds that the commission, having accomplished
9 its original statutory directive to implement this chapter, and having
10 expertise in sentencing practice and policies, shall:

11 (a) Evaluate state sentencing policy, to include whether the
12 sentencing ranges and standards are consistent with and further:

13 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

14 (ii) The intent of the legislature to emphasize confinement for the
15 violent offender and alternatives to confinement for the nonviolent
16 offender.

17 The commission shall provide the governor and the legislature with
18 its evaluation and recommendations under this subsection not later than
19 December 1, 1996, and every two years thereafter;

20 (b) Recommend to the legislature revisions or modifications to the
21 standard sentence ranges, state sentencing policy, prosecuting
22 standards, and other standards. If implementation of the revisions or
23 modifications would result in exceeding the capacity of correctional
24 facilities, then the commission shall accompany its recommendation with
25 an additional list of standard sentence ranges which are consistent
26 with correction capacity;

27 (c) Study the existing criminal code and from time to time make
28 recommendations to the legislature for modification;

29 (d) (i) Serve as a clearinghouse and information center for the
30 collection, preparation, analysis, and dissemination of information on
31 state and local adult and juvenile sentencing practices; (ii) develop
32 and maintain a computerized adult and juvenile sentencing information
33 system by individual superior court judge consisting of offender,
34 offense, history, and sentence information entered from judgment and
35 sentence forms for all adult felons; and (iii) conduct ongoing research
36 regarding adult and juvenile sentencing guidelines, use of total
37 confinement and alternatives to total confinement, plea bargaining, and

1 other matters relating to the improvement of the adult criminal justice
2 system and the juvenile justice system;

3 (e) Assume the powers and duties of the juvenile disposition
4 standards commission after June 30, 1996;

5 (f) Evaluate the effectiveness of existing disposition standards
6 and related statutes in implementing policies set forth in RCW
7 13.40.010 generally, specifically review the guidelines relating to the
8 confinement of minor and first offenders as well as the use of
9 diversion, and review the application of current and proposed juvenile
10 sentencing standards and guidelines for potential adverse impacts on
11 the sentencing outcomes of racial and ethnic minority youth;

12 (g) Solicit the comments and suggestions of the juvenile justice
13 community concerning disposition standards, and make recommendations to
14 the legislature regarding revisions or modifications of the standards
15 (~~in accordance with RCW 9.94A.045~~). The evaluations shall be
16 submitted to the legislature on December 1 of each odd-numbered year.
17 The department of social and health services shall provide the
18 commission with available data concerning the implementation of the
19 disposition standards and related statutes and their effect on the
20 performance of the department's responsibilities relating to juvenile
21 offenders, and with recommendations for modification of the disposition
22 standards. The office of the administrator for the courts shall
23 provide the commission with available data on diversion and
24 dispositions of juvenile offenders under chapter 13.40 RCW; and

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

- 28 (i) Racial disproportionality in juvenile and adult sentencing;
29 (ii) The capacity of state and local juvenile and adult facilities
30 and resources; and
31 (iii) Recidivism information on adult and juvenile offenders.

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

35 (4) The standard sentence ranges of total and partial confinement
36 under this chapter are subject to the following limitations:

37 (a) If the maximum term in the range is one year or less, the
38 minimum term in the range shall be no less than one-third of the
39 maximum term in the range, except that if the maximum term in the range

1 is ninety days or less, the minimum term may be less than one-third of
2 the maximum;

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

6 (c) The maximum term of confinement in a range may not exceed the
7 statutory maximum for the crime as provided in RCW 9A.20.021.

8 (5) The commission shall exercise its duties under this section in
9 conformity with chapter 34.05 RCW.

10 **Sec. 4.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c
11 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as
12 follows:

13 When a person is convicted of a felony, the court shall impose
14 punishment as provided in this section.

15 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
16 of this section, the court shall impose a sentence within the sentence
17 range for the offense.

18 (2) The court may impose a sentence outside the standard sentence
19 range for that offense if it finds, considering the purpose of this
20 chapter, that there are substantial and compelling reasons justifying
21 an exceptional sentence.

22 (3) Whenever a sentence outside the standard range is imposed, the
23 court shall set forth the reasons for its decision in written findings
24 of fact and conclusions of law. A sentence outside the standard range
25 shall be a determinate sentence.

26 (4) A persistent offender shall be sentenced to a term of total
27 confinement for life without the possibility of parole or, when
28 authorized by RCW 10.95.030 for the crime of aggravated murder in the
29 first degree, sentenced to death, notwithstanding the maximum sentence
30 under any other law. An offender convicted of the crime of murder in
31 the first degree shall be sentenced to a term of total confinement not
32 less than twenty years. An offender convicted of the crime of assault
33 in the first degree or assault of a child in the first degree where the
34 offender used force or means likely to result in death or intended to
35 kill the victim shall be sentenced to a term of total confinement not
36 less than five years. An offender convicted of the crime of rape in
37 the first degree shall be sentenced to a term of total confinement not
38 less than five years. The foregoing minimum terms of total confinement

1 are mandatory and shall not be varied or modified as provided in
2 subsection (2) of this section. In addition, all offenders subject to
3 the provisions of this subsection shall not be eligible for community
4 custody, earned early release time, furlough, home detention, partial
5 confinement, work crew, work release, or any other form of early
6 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
7 or any other form of authorized leave of absence from the correctional
8 facility while not in the direct custody of a corrections officer or
9 officers during such minimum terms of total confinement except in the
10 case of an offender in need of emergency medical treatment or for the
11 purpose of commitment to an inpatient treatment facility in the case of
12 an offender convicted of the crime of rape in the first degree.

13 (5) In sentencing a first-time offender the court may waive the
14 imposition of a sentence within the sentence range and impose a
15 sentence which may include up to ninety days of confinement in a
16 facility operated or utilized under contract by the county and a
17 requirement that the offender refrain from committing new offenses.
18 The sentence may also include up to two years of community supervision,
19 which, in addition to crime-related prohibitions, may include
20 requirements that the offender perform any one or more of the
21 following:

- 22 (a) Devote time to a specific employment or occupation;
- 23 (b) Undergo available outpatient treatment for up to two years, or
24 inpatient treatment not to exceed the standard range of confinement for
25 that offense;
- 26 (c) Pursue a prescribed, secular course of study or vocational
27 training;
- 28 (d) Remain within prescribed geographical boundaries and notify the
29 court or the community corrections officer prior to any change in the
30 offender's address or employment;
- 31 (e) Report as directed to the court and a community corrections
32 officer; or
- 33 (f) Pay all court-ordered legal financial obligations as provided
34 in RCW 9.94A.030 and/or perform community service work.

35 (6)(a) An offender is eligible for the special drug offender
36 sentencing alternative if:

- 37 (i) The offender is convicted of the manufacture, delivery, or
38 possession with intent to manufacture or deliver a controlled substance
39 classified in Schedule I or II that is a narcotic drug or a felony that

1 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
2 criminal solicitation, or criminal conspiracy to commit such crimes,
3 and the violation does not involve a sentence enhancement under RCW
4 9.94A.310 (3) or (4);

5 (ii) The offender has no prior convictions for a felony in this
6 state, another state, or the United States; and

7 (iii) The offense involved only a small quantity of the particular
8 controlled substance as determined by the judge upon consideration of
9 such factors as the weight, purity, packaging, sale price, and street
10 value of the controlled substance.

11 (b) If the midpoint of the standard range is greater than one year
12 and the sentencing judge determines that the offender is eligible for
13 this option and that the offender and the community will benefit from
14 the use of the special drug offender sentencing alternative, the judge
15 may waive imposition of a sentence within the standard range and impose
16 a sentence that must include a period of total confinement in a state
17 facility for one-half of the midpoint of the standard range. During
18 incarceration in the state facility, offenders sentenced under this
19 subsection shall undergo a comprehensive substance abuse assessment and
20 receive, within available resources, treatment services appropriate for
21 the offender. The treatment services shall be designed by the division
22 of alcohol and substance abuse of the department of social and health
23 services, in cooperation with the department of corrections. If the
24 midpoint of the standard range is twenty-four months or less, no more
25 than three months of the sentence may be served in a work release
26 status. The court shall also impose one year of concurrent community
27 custody and community supervision that must include appropriate
28 outpatient substance abuse treatment, crime-related prohibitions
29 including a condition not to use illegal controlled substances, and a
30 requirement to submit to urinalysis or other testing to monitor that
31 status. The court may require that the monitoring for controlled
32 substances be conducted by the department or by a treatment
33 alternatives to street crime program or a comparable court or agency-
34 referred program. The offender may be required to pay thirty dollars
35 per month while on community custody to offset the cost of monitoring.
36 In addition, the court shall impose three or more of the following
37 conditions:

38 (i) Devote time to a specific employment or training;

1 (ii) Remain within prescribed geographical boundaries and notify
2 the court or the community corrections officer before any change in the
3 offender's address or employment;

4 (iii) Report as directed to a community corrections officer;

5 (iv) Pay all court-ordered legal financial obligations;

6 (v) Perform community service work;

7 (vi) Stay out of areas designated by the sentencing judge.

8 (c) If the offender violates any of the sentence conditions in (b)
9 of this subsection, the department shall impose sanctions
10 administratively, with notice to the prosecuting attorney and the
11 sentencing court. Upon motion of the court or the prosecuting
12 attorney, a violation hearing shall be held by the court. If the court
13 finds that conditions have been willfully violated, the court may
14 impose confinement consisting of up to the remaining one-half of the
15 midpoint of the standard range. All total confinement served during
16 the period of community custody shall be credited to the offender,
17 regardless of whether the total confinement is served as a result of
18 the original sentence, as a result of a sanction imposed by the
19 department, or as a result of a violation found by the court. The term
20 of community supervision shall be tolled by any period of time served
21 in total confinement as a result of a violation found by the court.

22 (d) The department shall determine the rules for calculating the
23 value of a day fine based on the offender's income and reasonable
24 obligations which the offender has for the support of the offender and
25 any dependents. These rules shall be developed in consultation with
26 the administrator for the courts, the office of financial management,
27 and the commission.

28 (7) If a sentence range has not been established for the
29 defendant's crime, the court shall impose a determinate sentence which
30 may include not more than one year of confinement, community service
31 work, a term of community supervision not to exceed one year, and/or
32 other legal financial obligations. The court may impose a sentence
33 which provides more than one year of confinement if the court finds,
34 considering the purpose of this chapter, that there are substantial and
35 compelling reasons justifying an exceptional sentence.

36 (8) (a) (i) When an offender is convicted of a sex offense other than
37 a violation of RCW 9A.44.050 or a sex offense that is also a serious
38 violent offense and has no prior convictions for a sex offense or any
39 other felony sex offenses in this or any other state, the sentencing

1 court, on its own motion or the motion of the state or the defendant,
2 may order an examination to determine whether the defendant is amenable
3 to treatment.

4 The report of the examination shall include at a minimum the
5 following: The defendant's version of the facts and the official
6 version of the facts, the defendant's offense history, an assessment of
7 problems in addition to alleged deviant behaviors, the offender's
8 social and employment situation, and other evaluation measures used.
9 The report shall set forth the sources of the evaluator's information.

10 The examiner shall assess and report regarding the defendant's
11 amenability to treatment and relative risk to the community. A
12 proposed treatment plan shall be provided and shall include, at a
13 minimum:

- 14 (A) Frequency and type of contact between offender and therapist;
- 15 (B) Specific issues to be addressed in the treatment and
16 description of planned treatment modalities;
- 17 (C) Monitoring plans, including any requirements regarding living
18 conditions, lifestyle requirements, and monitoring by family members
19 and others;
- 20 (D) Anticipated length of treatment; and
- 21 (E) Recommended crime-related prohibitions.

22 The court on its own motion may order, or on a motion by the state
23 shall order, a second examination regarding the offender's amenability
24 to treatment. The evaluator shall be selected by the party making the
25 motion. The defendant shall pay the cost of any second examination
26 ordered unless the court finds the defendant to be indigent in which
27 case the state shall pay the cost.

28 (ii) After receipt of the reports, the court shall consider whether
29 the offender and the community will benefit from use of this special
30 sexual offender sentencing alternative and consider the victim's
31 opinion whether the offender should receive a treatment disposition
32 under this subsection. If the court determines that this special sex
33 offender sentencing alternative is appropriate, the court shall then
34 impose a sentence within the sentence range. If this sentence is less
35 than eight years of confinement, the court may suspend the execution of
36 the sentence and impose the following conditions of suspension:

- 37 (A) The court shall place the defendant on community custody for
38 the length of the suspended sentence or three years, whichever is
39 greater, and require the offender to comply with any conditions imposed

1 by the department of corrections under subsection (14) of this section;
2 and

3 (B) The court shall order treatment for any period up to three
4 years in duration. The court in its discretion shall order outpatient
5 sex offender treatment or inpatient sex offender treatment, if
6 available. A community mental health center may not be used for such
7 treatment unless it has an appropriate program designed for sex
8 offender treatment. The offender shall not change sex offender
9 treatment providers or treatment conditions without first notifying the
10 prosecutor, the community corrections officer, and the court, and shall
11 not change providers without court approval after a hearing if the
12 prosecutor or community corrections officer object to the change. In
13 addition, as conditions of the suspended sentence, the court may impose
14 other sentence conditions including up to six months of confinement,
15 not to exceed the sentence range of confinement for that offense,
16 crime-related prohibitions, and requirements that the offender perform
17 any one or more of the following:

18 (I) Devote time to a specific employment or occupation;

19 (II) Remain within prescribed geographical boundaries and notify
20 the court or the community corrections officer prior to any change in
21 the offender's address or employment;

22 (III) Report as directed to the court and a community corrections
23 officer;

24 (IV) Pay all court-ordered legal financial obligations as provided
25 in RCW 9.94A.030, perform community service work, or any combination
26 thereof; or

27 (V) Make recoupment to the victim for the cost of any counseling
28 required as a result of the offender's crime.

29 (iii) The sex offender therapist shall submit quarterly reports on
30 the defendant's progress in treatment to the court and the parties.
31 The report shall reference the treatment plan and include at a minimum
32 the following: Dates of attendance, defendant's compliance with
33 requirements, treatment activities, the defendant's relative progress
34 in treatment, and any other material as specified by the court at
35 sentencing.

36 (iv) At the time of sentencing, the court shall set a treatment
37 termination hearing for three months prior to the anticipated date for
38 completion of treatment. Prior to the treatment termination hearing,
39 the treatment professional and community corrections officer shall

1 submit written reports to the court and parties regarding the
2 defendant's compliance with treatment and monitoring requirements, and
3 recommendations regarding termination from treatment, including
4 proposed community supervision conditions. Either party may request
5 and the court may order another evaluation regarding the advisability
6 of termination from treatment. The defendant shall pay the cost of any
7 additional evaluation ordered unless the court finds the defendant to
8 be indigent in which case the state shall pay the cost. At the
9 treatment termination hearing the court may: (A) Modify conditions of
10 community custody, and either (B) terminate treatment, or (C) extend
11 treatment for up to the remaining period of community custody.

12 (v) If a violation of conditions occurs during community custody,
13 the department shall either impose sanctions as provided for in RCW
14 9.94A.205(2)(a) or refer the violation to the court and recommend
15 revocation of the suspended sentence as provided for in (a)(vi) of this
16 subsection.

17 (vi) The court may revoke the suspended sentence at any time during
18 the period of community custody and order execution of the sentence if:
19 (A) The defendant violates the conditions of the suspended sentence, or
20 (B) the court finds that the defendant is failing to make satisfactory
21 progress in treatment. All confinement time served during the period
22 of community custody shall be credited to the offender if the suspended
23 sentence is revoked.

24 (vii) Except as provided in (a)(viii) of this subsection, after
25 July 1, 1991, examinations and treatment ordered pursuant to this
26 subsection shall only be conducted by sex offender treatment providers
27 certified by the department of health pursuant to chapter 18.155 RCW.

28 (viii) A sex offender therapist who examines or treats a sex
29 offender pursuant to this subsection (8) does not have to be certified
30 by the department of health pursuant to chapter 18.155 RCW if the court
31 finds that: (A) The offender has already moved to another state or
32 plans to move to another state for reasons other than circumventing the
33 certification requirements; (B) no certified providers are available
34 for treatment within a reasonable geographical distance of the
35 offender's home; and (C) the evaluation and treatment plan comply with
36 this subsection (8) and the rules adopted by the department of health.

37 (ix) For purposes of this subsection (8), "victim" means any person
38 who has sustained emotional, psychological, physical, or financial
39 injury to person or property as a result of the crime charged.

1 "Victim" also means a parent or guardian of a victim who is a minor
2 child unless the parent or guardian is the perpetrator of the offense.

3 (x) If the defendant was less than eighteen years of age when the
4 charge was filed, the state shall pay for the cost of initial
5 evaluation and treatment.

6 (b) When an offender commits any felony sex offense on or after
7 July 1, 1987, and is sentenced to a term of confinement of more than
8 one year but less than six years, the sentencing court may, on its own
9 motion or on the motion of the offender or the state, request the
10 department of corrections to evaluate whether the offender is amenable
11 to treatment and the department may place the offender in a treatment
12 program within a correctional facility operated by the department.

13 Except for an offender who has been convicted of a violation of RCW
14 9A.44.040 or 9A.44.050, if the offender completes the treatment program
15 before the expiration of his or her term of confinement, the department
16 of corrections may request the court to convert the balance of
17 confinement to community supervision and to place conditions on the
18 offender including crime-related prohibitions and requirements that the
19 offender perform any one or more of the following:

- 20 (i) Devote time to a specific employment or occupation;
21 (ii) Remain within prescribed geographical boundaries and notify
22 the court or the community corrections officer prior to any change in
23 the offender's address or employment;
24 (iii) Report as directed to the court and a community corrections
25 officer;
26 (iv) Undergo available outpatient treatment.

27 If the offender violates any of the terms of his or her community
28 supervision, the court may order the offender to serve out the balance
29 of his or her community supervision term in confinement in the custody
30 of the department of corrections.

31 Nothing in this subsection (8) (b) shall confer eligibility for such
32 programs for offenders convicted and sentenced for a sex offense
33 committed prior to July 1, 1987. This subsection (8) (b) does not apply
34 to any crime committed after July 1, 1990.

35 (c) Offenders convicted and sentenced for a sex offense committed
36 prior to July 1, 1987, may, subject to available funds, request an
37 evaluation by the department of corrections to determine whether they
38 are amenable to treatment. If the offender is determined to be
39 amenable to treatment, the offender may request placement in a

1 treatment program within a correctional facility operated by the
2 department. Placement in such treatment program is subject to
3 available funds.

4 (9) (a) When a court sentences a person to a term of total
5 confinement to the custody of the department of corrections for an
6 offense categorized as a sex offense or a serious violent offense
7 committed after July 1, 1988, but before July 1, 1990, assault in the
8 second degree, assault of a child in the second degree, any crime
9 against a person where it is determined in accordance with RCW
10 9.94A.125 that the defendant or an accomplice was armed with a deadly
11 weapon at the time of commission, or any felony offense under chapter
12 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
13 committed on or after July 1, 1988, the court shall in addition to the
14 other terms of the sentence, sentence the offender to a one-year term
15 of community placement beginning either upon completion of the term of
16 confinement or at such time as the offender is transferred to community
17 custody in lieu of earned early release in accordance with RCW
18 9.94A.150 (1) and (2). When the court sentences an offender under this
19 subsection to the statutory maximum period of confinement then the
20 community placement portion of the sentence shall consist entirely of
21 such community custody to which the offender may become eligible, in
22 accordance with RCW 9.94A.150 (1) and (2). Any period of community
23 custody actually served shall be credited against the community
24 placement portion of the sentence.

25 (b) When a court sentences a person to a term of total confinement
26 to the custody of the department of corrections for an offense
27 categorized as a sex offense committed on or after July 1, 1990, but
28 before June 6, 1996, a serious violent offense, vehicular homicide, or
29 vehicular assault, committed on or after July 1, 1990, the court shall
30 in addition to other terms of the sentence, sentence the offender to
31 community placement for two years or up to the period of earned early
32 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
33 longer. The community placement shall begin either upon completion of
34 the term of confinement or at such time as the offender is transferred
35 to community custody in lieu of earned early release in accordance with
36 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
37 this subsection to the statutory maximum period of confinement then the
38 community placement portion of the sentence shall consist entirely of
39 the community custody to which the offender may become eligible, in

1 accordance with RCW 9.94A.150 (1) and (2). Any period of community
2 custody actually served shall be credited against the community
3 placement portion of the sentence. Unless a condition is waived by the
4 court, the terms of community placement for offenders sentenced
5 pursuant to this section shall include the following conditions:

6 (i) The offender shall report to and be available for contact with
7 the assigned community corrections officer as directed;

8 (ii) The offender shall work at department of corrections-approved
9 education, employment, and/or community service;

10 (iii) The offender shall not consume controlled substances except
11 pursuant to lawfully issued prescriptions;

12 (iv) An offender in community custody shall not unlawfully possess
13 controlled substances;

14 (v) The offender shall pay supervision fees as determined by the
15 department of corrections; and

16 (vi) The residence location and living arrangements are subject to
17 the prior approval of the department of corrections during the period
18 of community placement.

19 (c) As a part of any sentence imposed under (a) or (b) of this
20 subsection, the court may also order any of the following special
21 conditions:

22 (i) The offender shall remain within, or outside of, a specified
23 geographical boundary;

24 (ii) The offender shall not have direct or indirect contact with
25 the victim of the crime or a specified class of individuals;

26 (iii) The offender shall participate in crime-related treatment or
27 counseling services;

28 (iv) The offender shall not consume alcohol;

29 (v) The offender shall comply with any crime-related prohibitions;
30 or

31 (vi) For an offender convicted of a felony sex offense against a
32 minor victim after June 6, 1996, the offender shall comply with any
33 terms and conditions of community placement imposed by the department
34 of corrections relating to contact between the sex offender and a minor
35 victim or a child of similar age or circumstance as a previous victim.

36 (d) Prior to transfer to, or during, community placement, any
37 conditions of community placement may be removed or modified so as not
38 to be more restrictive by the sentencing court, upon recommendation of
39 the department of corrections.

1 (10)(a) When a court sentences a person to the custody of the
2 department of corrections for an offense categorized as a sex offense
3 committed on or after June 6, 1996, the court shall, in addition to
4 other terms of the sentence, sentence the offender to community custody
5 for three years or up to the period of earned early release awarded
6 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
7 community custody shall begin either upon completion of the term of
8 confinement or at such time as the offender is transferred to community
9 custody in lieu of earned early release in accordance with RCW
10 9.94A.150 (1) and (2).

11 (b) Unless a condition is waived by the court, the terms of
12 community custody shall be the same as those provided for in subsection
13 (9)(b) of this section and may include those provided for in subsection
14 (9)(c) of this section. As part of any sentence that includes a term
15 of community custody imposed under this subsection, the court shall
16 also require the offender to comply with any conditions imposed by the
17 department of corrections under subsection (14) of this section.

18 (c) At any time prior to the completion of a sex offender's term of
19 community custody, if the court finds that public safety would be
20 enhanced, the court may impose and enforce an order extending any or
21 all of the conditions imposed pursuant to this section for a period up
22 to the maximum allowable sentence for the crime as it is classified in
23 chapter 9A.20 RCW, regardless of the expiration of the offender's term
24 of community custody. If a violation of a condition extended under
25 this subsection occurs after the expiration of the offender's term of
26 community custody, it shall be deemed a violation of the sentence for
27 the purposes of RCW 9.94A.195 and may be punishable as contempt of
28 court as provided for in RCW 7.21.040.

29 (11) If the court imposes a sentence requiring confinement of
30 thirty days or less, the court may, in its discretion, specify that the
31 sentence be served on consecutive or intermittent days. A sentence
32 requiring more than thirty days of confinement shall be served on
33 consecutive days. Local jail administrators may schedule court-ordered
34 intermittent sentences as space permits.

35 (12) If a sentence imposed includes payment of a legal financial
36 obligation, the sentence shall specify the total amount of the legal
37 financial obligation owed, and shall require the offender to pay a
38 specified monthly sum toward that legal financial obligation.
39 Restitution to victims shall be paid prior to any other payments of

1 monetary obligations. Any legal financial obligation that is imposed
2 by the court may be collected by the department, which shall deliver
3 the amount paid to the county clerk for credit. The offender's
4 compliance with payment of legal financial obligations shall be
5 supervised by the department. All monetary payments ordered shall be
6 paid no later than ten years after the last date of release from
7 confinement pursuant to a felony conviction or the date the sentence
8 was entered. Independent of the department, the party or entity to
9 whom the legal financial obligation is owed shall have the authority to
10 utilize any other remedies available to the party or entity to collect
11 the legal financial obligation. Nothing in this section makes the
12 department, the state, or any of its employees, agents, or other
13 persons acting on their behalf liable under any circumstances for the
14 payment of these legal financial obligations. If an order includes
15 restitution as one of the monetary assessments, the county clerk shall
16 make disbursements to victims named in the order.

17 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
18 court may not impose a sentence providing for a term of confinement or
19 community supervision or community placement which exceeds the
20 statutory maximum for the crime as provided in chapter 9A.20 RCW.

21 (14) All offenders sentenced to terms involving community
22 supervision, community service, community placement, or legal financial
23 obligation shall be under the supervision of the department of
24 corrections and shall follow explicitly the instructions and conditions
25 of the department of corrections.

26 (a) The instructions shall include, at a minimum, reporting as
27 directed to a community corrections officer, remaining within
28 prescribed geographical boundaries, notifying the community corrections
29 officer of any change in the offender's address or employment, and
30 paying the supervision fee assessment.

31 (b) For sex offenders sentenced to terms involving community
32 custody for crimes committed on or after June 6, 1996, the department
33 may include, in addition to the instructions in (a) of this subsection,
34 any appropriate conditions of supervision, including but not limited
35 to, prohibiting the offender from having contact with any other
36 specified individuals or specific class of individuals. The conditions
37 authorized under this subsection (14)(b) may be imposed by the
38 department prior to or during a sex offender's community custody term.
39 If a violation of conditions imposed by the court or the department

1 pursuant to subsection (10) of this section occurs during community
2 custody, it shall be deemed a violation of community placement for the
3 purposes of RCW 9.94A.207 and shall authorize the department to
4 transfer an offender to a more restrictive confinement status as
5 provided in RCW 9.94A.205. At any time prior to the completion of a
6 sex offender's term of community custody, the department may recommend
7 to the court that any or all of the conditions imposed by the court or
8 the department pursuant to subsection (10) of this section be continued
9 beyond the expiration of the offender's term of community custody as
10 authorized in subsection (10)(c) of this section.

11 The department may require offenders to pay for special services
12 rendered on or after July 25, 1993, including electronic monitoring,
13 day reporting, and telephone reporting, dependent upon the offender's
14 ability to pay. The department may pay for these services for
15 offenders who are not able to pay.

16 (15) All offenders sentenced to terms involving community
17 supervision, community service, or community placement under the
18 supervision of the department of corrections shall not own, use, or
19 possess firearms or ammunition. Offenders who own, use, or are found
20 to be in actual or constructive possession of firearms or ammunition
21 shall be subject to the appropriate violation process and sanctions.
22 "Constructive possession" as used in this subsection means the power
23 and intent to control the firearm or ammunition. "Firearm" as used in
24 this subsection means a weapon or device from which a projectile may be
25 fired by an explosive such as gunpowder.

26 (16) The sentencing court shall give the offender credit for all
27 confinement time served before the sentencing if that confinement was
28 solely in regard to the offense for which the offender is being
29 sentenced.

30 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
31 governing whether sentences are to be served consecutively or
32 concurrently is an exceptional sentence subject to the limitations in
33 subsections (2) and (3) of this section, and may be appealed by the
34 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

35 (18) The court shall order restitution whenever the offender is
36 convicted of a felony that results in injury to any person or damage to
37 or loss of property, whether the offender is sentenced to confinement
38 or placed under community supervision, unless extraordinary
39 circumstances exist that make restitution inappropriate in the court's

1 judgment. The court shall set forth the extraordinary circumstances in
2 the record if it does not order restitution.

3 (19) As a part of any sentence, the court may impose and enforce an
4 order that relates directly to the circumstances of the crime for which
5 the offender has been convicted, prohibiting the offender from having
6 any contact with other specified individuals or a specific class of
7 individuals for a period not to exceed the maximum allowable sentence
8 for the crime, regardless of the expiration of the offender's term of
9 community supervision or community placement.

10 (20) In any sentence of partial confinement, the court may require
11 the defendant to serve the partial confinement in work release, in a
12 program of home detention, on work crew, or in a combined program of
13 work crew and home detention.

14 (21) All court-ordered legal financial obligations collected by the
15 department and remitted to the county clerk shall be credited and paid
16 where restitution is ordered. Restitution shall be paid prior to any
17 other payments of monetary obligations.

18 **Sec. 5.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
19 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

28 ~~—(5))~~ Score prior convictions for felony anticipatory offenses
29 (attempts, criminal solicitations, and criminal conspiracies) the same
30 as if they were convictions for completed offenses.

31 ~~((+6))~~ (5)(a) In the case of multiple prior convictions, for the
32 purpose of computing the offender score, count all convictions
33 separately, except:

34 (i) Prior ~~((adult))~~ offenses which were found, under RCW
35 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
36 counted as one offense, the offense that yields the highest offender
37 score. The current sentencing court shall determine with respect to
38 other prior adult offenses for which sentences were served concurrently
39 or prior juvenile offenses for which sentences were served

1 consecutively, whether those offenses shall be counted as one offense
2 or as separate offenses using the "same criminal conduct" analysis
3 found in RCW 9.94A.400(1)(a), and if the court finds that they shall be
4 counted as one offense, then the offense that yields the highest
5 offender score shall be used. The current sentencing court may presume
6 that such other prior (~~adult~~) offenses were not the same criminal
7 conduct from sentences imposed on separate dates, or in separate
8 counties or jurisdictions, or in separate complaints, indictments, or
9 informations;

10 (ii) (~~Juvenile prior convictions entered or sentenced on the same~~
11 ~~date shall count as one offense, the offense that yields the highest~~
12 ~~offender score, except for juvenile prior convictions for violent~~
13 ~~offenses with separate victims, which shall count as separate offenses,~~
14 ~~and~~

15 ~~—(iii))~~ In the case of multiple prior convictions for offenses
16 committed before July 1, 1986, for the purpose of computing the
17 offender score, count all adult convictions served concurrently as one
18 offense, and count all juvenile convictions entered on the same date as
19 one offense. Use the conviction for the offense that yields the
20 highest offender score.

21 (b) As used in this subsection (~~(+6)~~) (5), "served concurrently"
22 means that: (i) The latter sentence was imposed with specific
23 reference to the former; (ii) the concurrent relationship of the
24 sentences was judicially imposed; and (iii) the concurrent timing of
25 the sentences was not the result of a probation or parole revocation on
26 the former offense.

27 (~~(+7)~~) (6) If the present conviction is one of the anticipatory
28 offenses of criminal attempt, solicitation, or conspiracy, count each
29 prior conviction as if the present conviction were for a completed
30 offense.

31 (~~(+8)~~) (7) If the present conviction is for a nonviolent offense
32 and not covered by subsection (~~(+12)~~) (11) or (~~(+13)~~) (12) of this
33 section, count one point for each adult prior felony conviction and one
34 point for each juvenile prior violent felony conviction and ½ point for
35 each juvenile prior nonviolent felony conviction.

36 (~~(+9)~~) (8) If the present conviction is for a violent offense and
37 not covered in subsection (~~(+10), (11), (12), or (13)~~) (9), (10),
38 (11), or (12) of this section, count two points for each prior adult
39 and juvenile violent felony conviction, one point for each prior adult

1 nonviolent felony conviction, and ½ point for each prior juvenile
2 nonviolent felony conviction.

3 ~~((+10))~~ (9) If the present conviction is for Murder 1 or 2,
4 Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or
5 Rape 1, count three points for prior adult and juvenile convictions for
6 crimes in these categories, two points for each prior adult and
7 juvenile violent conviction (not already counted), one point for each
8 prior adult nonviolent felony conviction, and ½ point for each prior
9 juvenile nonviolent felony conviction.

10 ~~((+11))~~ (10) If the present conviction is for Burglary 1, count
11 prior convictions as in subsection ~~((+9))~~ (8) of this section; however
12 count two points for each prior adult Burglary 2 or residential
13 burglary conviction, and one point for each prior juvenile Burglary 2
14 or residential burglary conviction.

15 ~~((+12))~~ (11) If the present conviction is for a felony traffic
16 offense count two points for each adult or juvenile prior conviction
17 for Vehicular Homicide or Vehicular Assault; for each felony offense or
18 serious traffic offense, count one point for each adult and ½ point for
19 each juvenile prior conviction.

20 ~~((+13))~~ (12) If the present conviction is for a drug offense count
21 three points for each adult prior felony drug offense conviction and
22 two points for each juvenile drug offense. All other adult and
23 juvenile felonies are scored as in subsection ~~((+9))~~ (8) of this
24 section if the current drug offense is violent, or as in subsection
25 ~~((+8))~~ (7) of this section if the current drug offense is nonviolent.

26 ~~((+14))~~ (13) If the present conviction is for Willful Failure to
27 Return from Furlough, RCW 72.66.060, Willful Failure to Return from
28 Work Release, RCW 72.65.070, or Escape from Community Custody, RCW
29 72.09.310, count only prior escape convictions in the offender score.
30 Count adult prior escape convictions as one point and juvenile prior
31 escape convictions as ½ point.

32 ~~((+15))~~ (14) If the present conviction is for Escape 1, RCW
33 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as
34 one point and juvenile prior convictions as ½ point.

35 ~~((+16))~~ (15) If the present conviction is for Burglary 2 or
36 residential burglary, count priors as in subsection ~~((+8))~~ (7) of this
37 section; however, count two points for each adult and juvenile prior
38 Burglary 1 conviction, two points for each adult prior Burglary 2 or

1 residential burglary conviction, and one point for each juvenile prior
2 Burglary 2 or residential burglary conviction.

3 ~~((17))~~ (16) If the present conviction is for a sex offense, count
4 priors as in subsections ~~((8))~~ (7) through ~~((16))~~ (15) of this
5 section; however count three points for each adult and juvenile prior
6 sex offense conviction.

7 ~~((18))~~ (17) If the present conviction is for an offense committed
8 while the offender was under community placement, add one point.

9 **Sec. 6.** RCW 13.04.011 and 1992 c 205 s 119 are each amended to
10 read as follows:

11 For purposes of this title:

12 (1) "Adjudication" has the same meaning as "conviction" in RCW
13 9.94A.030, and the terms must be construed identically and used
14 interchangeably;

15 (2) Except as specifically provided in RCW 13.40.020 and chapter
16 13.24 RCW, ~~((as now or hereafter amended,))~~ "juvenile," "youth," and
17 "child" mean any individual who is under the chronological age of
18 eighteen years;

19 ~~((2))~~ (3) "Juvenile offender" and "juvenile offense" have the
20 meaning ascribed in RCW 13.40.020;

21 ~~((3))~~ (4) "Court" when used without further qualification means
22 the juvenile court judge(s) or commissioner(s);

23 ~~((4))~~ (5) "Parent" or "parents," except as used in chapter 13.34
24 RCW, ~~((as now or hereafter amended,))~~ means that parent or parents who
25 have the right of legal custody of the child. "Parent" or "parents" as
26 used in chapter 13.34 RCW, means the biological or adoptive parents of
27 a child unless the legal rights of that person have been terminated by
28 judicial proceedings;

29 ~~((5))~~ (6) "Custodian" means that person who has the legal right
30 to custody of the child.

31 **Sec. 7.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
32 each reenacted and amended to read as follows:

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

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

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

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

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

7 (e) Relating to juveniles alleged or found to have committed
8 offenses, traffic or civil infractions, or violations as provided in
9 RCW 13.40.020 through 13.40.230, unless:

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

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

14 (iii) The alleged offense or infraction is a traffic, fish,
15 boating, or game offense, or traffic or civil infraction committed by
16 a juvenile sixteen years of age or older and would, if committed by an
17 adult, be tried or heard in a court of limited jurisdiction, in which
18 instance the appropriate court of limited jurisdiction shall have
19 jurisdiction over the alleged offense or infraction, and no guardian ad
20 litem is required in any such proceeding due to the juvenile's age:

21 PROVIDED, That if such an alleged offense or infraction and an alleged
22 offense or infraction subject to juvenile court jurisdiction arise out
23 of the same event or incident, the juvenile court may have jurisdiction
24 of both matters: PROVIDED FURTHER, That the jurisdiction under this
25 subsection does not constitute "transfer" or a "decline" for purposes
26 of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER,
27 That courts of limited jurisdiction which confine juveniles for an
28 alleged offense or infraction may place juveniles in juvenile detention
29 facilities under an agreement with the officials responsible for the
30 administration of the juvenile detention facility in RCW 13.04.035 and
31 13.20.060; or

32 (iv) The juvenile is sixteen or seventeen years old and the alleged
33 offense is:

34 (A) A serious violent offense as defined in RCW 9.94A.030
35 (~~committed on or after June 13, 1994; or~~);

36 (B) A violent offense as defined in RCW 9.94A.030 (~~committed on or~~
37 ~~after June 13, 1994,~~) and the juvenile has a criminal history
38 consisting of: (I) One or more prior serious violent offenses; (II)
39 two or more prior violent offenses; or (III) three or more of any

1 combination of the following offenses: Any class A felony, any class
2 B felony, vehicular assault, or manslaughter in the second degree, all
3 of which must have been committed after the juvenile's thirteenth
4 birthday and prosecuted separately;

5 (C) Robbery in the first degree, rape of a child in the first
6 degree, or drive-by shooting, committed on or after the effective date
7 of this section;

8 (D) Burglary in the first degree committed on or after the
9 effective date of this section, and the juvenile has a criminal history
10 consisting of one or more prior felony or misdemeanor offenses; or

11 (E) Any violent offense as defined in RCW 9.94A.030 committed on or
12 after the effective date of this section, and the juvenile is alleged
13 to have been armed with a firearm.

14 In such a case the adult criminal court shall have exclusive
15 original jurisdiction.

16 If the juvenile challenges the state's determination of the
17 juvenile's criminal history under (e) (iv) of this subsection, the state
18 may establish the offender's criminal history by a preponderance of the
19 evidence. If the criminal history consists of adjudications entered
20 upon a plea of guilty, the state shall not bear a burden of
21 establishing the knowing and voluntariness of the plea;

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

24 (g) Relating to termination of a diversion agreement under RCW
25 13.40.080, including a proceeding in which the divertee has attained
26 eighteen years of age;

27 (h) Relating to court validation of a voluntary consent to an out-
28 of-home placement under chapter 13.34 RCW, by the parent or Indian
29 custodian of an Indian child, except if the parent or Indian custodian
30 and child are residents of or domiciled within the boundaries of a
31 federally recognized Indian reservation over which the tribe exercises
32 exclusive jurisdiction; and

33 (i) Relating to petitions to compel disclosure of information filed
34 by the department of social and health services pursuant to RCW
35 74.13.042.

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

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

5 **Sec. 8.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to
6 read as follows:

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

9 (2) It is the intent of the legislature that a system capable of
10 having primary responsibility for, being accountable for, and
11 responding to the needs of youthful offenders, as defined by this
12 chapter, be established. It is the further intent of the legislature
13 that youth, in turn, be held accountable for their offenses and that
14 (~~both~~) communities, families, and the juvenile courts carry out their
15 functions consistent with this intent. To effectuate these policies,
16 the legislature declares the following to be equally important purposes
17 of this chapter:

18 (a) Protect the citizenry from criminal behavior;

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

21 (c) Make the juvenile offender accountable for his or her criminal
22 behavior;

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

25 (e) Provide due process for juveniles alleged to have committed an
26 offense;

27 (f) Provide necessary treatment, supervision, and custody for
28 juvenile offenders;

29 (g) Provide for the handling of juvenile offenders by communities
30 whenever consistent with public safety;

31 (h) Provide for restitution to victims of crime;

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

35 (j) Provide for a clear policy to determine what types of offenders
36 shall receive punishment, treatment, or both, and to determine the
37 jurisdictional limitations of the courts, institutions, and community
38 services; and

1 (k) Encourage the parents, guardian, or custodian of the juvenile
2 to actively participate in the juvenile justice process.

3 **Sec. 9.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
4 each reenacted and amended to read as follows:

5 For the purposes of this chapter:

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

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

9 (b) Manslaughter in the first degree; or

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

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

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

35 (a) Community-based sanctions;

36 (b) Community-based rehabilitation;

37 (c) Monitoring and reporting requirements;

1 (d) Posting of a probation bond (~~imposed pursuant to RCW~~
2 ~~13.40.0357~~);

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

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

6 (b) Community service not to exceed one hundred fifty hours of
7 service;

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

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

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

35 (8) "Court₁" (~~(7)~~) when used without further qualification, means
36 the juvenile court judge(s) or commissioner(s);

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

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

5 (b) The criminal complaint was diverted by a prosecutor pursuant to
6 the provisions of this chapter on agreement of the respondent and after
7 an advisement to the respondent that the criminal complaint would be
8 considered as part of the respondent's criminal history. A
9 successfully completed deferred adjudication that was entered before
10 the effective date of this section or a deferred disposition shall not
11 be considered part of the respondent's criminal history;

12 (10) "Department" means the department of social and health
13 services;

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

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

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

1 (14) "Intensive supervision program" means a parole program that
2 requires intensive supervision and monitoring, offers an array of
3 individualized treatment and transitional services, and emphasizes
4 community involvement and support in order to reduce the likelihood a
5 juvenile offender will commit further offenses;

6 (15) "Juvenile," "youth," and "child" mean any individual who is
7 under the chronological age of eighteen years and who has not been
8 previously transferred to adult court pursuant to RCW 13.40.110 or who
9 is otherwise under adult court jurisdiction;

10 ~~((15))~~ (16) "Juvenile offender" means any juvenile who has been
11 found by the juvenile court to have committed an offense, including a
12 person eighteen years of age or older over whom jurisdiction has been
13 extended under RCW 13.40.300;

14 ~~((16))~~ (17) "Manifest injustice" means a disposition that would
15 either impose an excessive penalty on the juvenile or would impose a
16 serious, and clear danger to society in light of the purposes of this
17 chapter;

18 ~~((17))~~ (18) "Middle offender" means a person who has committed an
19 offense and who is neither a minor or first offender nor a serious
20 offender;

21 ~~((18))~~ (19) "Minor or first offender" means a person whose
22 current offense(s) and criminal history fall entirely within one of the
23 following categories:

- 24 (a) Four misdemeanors;
- 25 (b) Two misdemeanors and one gross misdemeanor;
- 26 (c) One misdemeanor and two gross misdemeanors; and
- 27 (d) Three gross misdemeanors.

28 For purposes of this definition, current violations shall be
29 counted as misdemeanors;

30 ~~((19))~~ (20) "Offense" means an act designated a violation or a
31 crime if committed by an adult under the law of this state, under any
32 ordinance of any city or county of this state, under any federal law,
33 or under the law of another state if the act occurred in that state;

34 ~~((20))~~ (21) "Respondent" means a juvenile who is alleged or
35 proven to have committed an offense;

36 ~~((21))~~ (22) "Restitution" means financial reimbursement by the
37 offender to the victim, and shall be limited to easily ascertainable
38 damages for injury to or loss of property, actual expenses incurred for
39 medical treatment for physical injury to persons, lost wages resulting

1 from physical injury, and costs of the victim's counseling reasonably
2 related to the offense if the offense is a sex offense. Restitution
3 shall not include reimbursement for damages for mental anguish, pain
4 and suffering, or other intangible losses. Nothing in this chapter
5 shall limit or replace civil remedies or defenses available to the
6 victim or offender;

7 ~~((22))~~ (23) "Secretary" means the secretary of the department of
8 social and health services. "Assistant secretary" means the assistant
9 secretary for juvenile rehabilitation for the department;

10 ~~((23))~~ (24) "Services" means services which provide alternatives
11 to incarceration for those juveniles who have pleaded or been
12 adjudicated guilty of an offense or have signed a diversion agreement
13 pursuant to this chapter;

14 ~~((24))~~ (25) "Sex offense" means an offense defined as a sex
15 offense in RCW 9.94A.030;

16 ~~((25))~~ (26) "Sexual motivation" means that one of the purposes
17 for which the respondent committed the offense was for the purpose of
18 his or her sexual gratification;

19 ~~((26))~~ (27) "Foster care" means temporary physical care in a
20 foster family home or group care facility as defined in RCW 74.15.020
21 and licensed by the department, or other legally authorized care;

22 ~~((27))~~ (28) "Violation" means an act or omission, which if
23 committed by an adult, must be proven beyond a reasonable doubt, and is
24 punishable by sanctions which do not include incarceration;

25 ~~((28))~~ (29) "Violent offense" means a violent offense as defined
26 in RCW 9.94A.030;

27 ~~((29))~~ (30) "Probation bond" means a bond, posted with sufficient
28 security by a surety justified and approved by the court, to secure the
29 offender's appearance at required court proceedings and compliance with
30 court-ordered community supervision or conditions of release ordered
31 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
32 cash or posting of other collateral in lieu of a bond if approved by
33 the court;

34 ~~((30))~~ (31) "Surety" means an entity licensed under state
35 insurance laws or by the state department of licensing, to write
36 corporate, property, or probation bonds within the state, and justified
37 and approved by the superior court of the county having jurisdiction of
38 the case.

39 This section expires July 1, 1998.

1 **Sec. 10.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
2 each reenacted and amended to read as follows:

3 For the purposes of this chapter:

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

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

8 ~~— (b) Manslaughter in the first degree; or~~

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

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

21 (~~(3))~~ (2) "Community supervision" means an order of disposition
22 by the court of an adjudicated youth not committed to the department or
23 an order granting a deferred (~~adjudication pursuant to RCW 13.40.125~~)
24 disposition. A community supervision order for a single offense may be
25 for a period of up to two years for a sex offense as defined by RCW
26 9.94A.030 and up to one year for other offenses. As a mandatory
27 condition of any term of community supervision, the court shall order
28 the juvenile to refrain from committing new offenses. As a mandatory
29 condition of community supervision, the court shall order the juvenile
30 to comply with the mandatory school attendance provisions of chapter
31 28A.225 RCW and to inform the school of the existence of this
32 requirement. Community supervision is an individualized program
33 comprised of one or more of the following:

34 (a) Community-based sanctions;

35 (b) Community-based rehabilitation;

36 (c) Monitoring and reporting requirements;

37 (d) Posting of a probation bond (~~imposed pursuant to RCW~~
38 ~~13.40.0357~~);

1 (~~(4)~~) (3) Community-based sanctions may include one or more of
2 the following:

3 (a) A fine, not to exceed (~~(one)~~) five hundred dollars;

4 (b) Community service not to exceed one hundred fifty hours of
5 service;

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

15 (~~(6)~~) (5) "Monitoring and reporting requirements" means one or
16 more of the following: Curfews; requirements to remain at home,
17 school, work, or court-ordered treatment programs during specified
18 hours; restrictions from leaving or entering specified geographical
19 areas; requirements to report to the probation officer as directed and
20 to remain under the probation officer's supervision; and other
21 conditions or limitations as the court may require which may not
22 include confinement;

23 (~~(7)~~) (6) "Confinement" means physical custody by the department
24 of social and health services in a facility operated by or pursuant to
25 a contract with the state, or physical custody in a detention facility
26 operated by or pursuant to a contract with any county. The county may
27 operate or contract with vendors to operate county detention
28 facilities. The department may operate or contract to operate
29 detention facilities for juveniles committed to the department.
30 Pretrial confinement or confinement of less than thirty-one days
31 imposed as part of a disposition or modification order may be served
32 consecutively or intermittently, in the discretion of the court;

33 (~~(8)~~) (7) "Court," (~~(7)~~) when used without further qualification,
34 means the juvenile court judge(s) or commissioner(s);

35 (~~(9)~~) (8) "Criminal history" includes all criminal complaints
36 against the respondent for which, prior to the commission of a current
37 offense:

38 (a) The allegations were found correct by a court. If a respondent
39 is convicted of two or more charges arising out of the same course of

1 conduct, only the highest charge from among these shall count as an
2 offense for the purposes of this chapter; or

3 (b) The criminal complaint was diverted by a prosecutor pursuant to
4 the provisions of this chapter on agreement of the respondent and after
5 an advisement to the respondent that the criminal complaint would be
6 considered as part of the respondent's criminal history. A
7 successfully completed deferred adjudication that was entered before
8 the effective date of this section or a deferred disposition shall not
9 be considered part of the respondent's criminal history;

10 ((~~10~~)) (9) "Department" means the department of social and health
11 services;

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

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

35 ((~~13~~)) (12) "Institution" means a juvenile facility established
36 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

37 ((~~14~~)) (13) "Intensive supervision program" means a parole
38 program that requires intensive supervision and monitoring, offers an
39 array of individualized treatment and transitional services, and

1 emphasizes community involvement and support in order to reduce the
2 likelihood a juvenile offender will commit further offenses;

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

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

11 (16) "Local sanctions" means one or more of the following: (a)
12 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
13 0-150 hours of community service; or (d) \$0-\$500 fine;

14 ~~((16))~~ (17) "Manifest injustice" means a disposition that would
15 either impose an excessive penalty on the juvenile or would impose a
16 serious, and clear danger to society in light of the purposes of this
17 chapter;

18 ~~((17) "Middle offender" means a person who has committed an~~
19 ~~offense and who is neither a minor or first offender nor a serious~~
20 ~~offender;~~

21 ~~(18) "Minor or first offender" means a person whose current~~
22 ~~offense(s) and criminal history fall entirely within one of the~~
23 ~~following categories:~~

24 ~~(a) Four misdemeanors;~~

25 ~~(b) Two misdemeanors and one gross misdemeanor;~~

26 ~~(c) One misdemeanor and two gross misdemeanors; and~~

27 ~~(d) Three gross misdemeanors.~~

28 ~~For purposes of this definition, current violations shall be~~
29 ~~counted as misdemeanors;~~

30 ~~((19))~~ (18) "Offense" means an act designated a violation or a
31 crime if committed by an adult under the law of this state, under any
32 ordinance of any city or county of this state, under any federal law,
33 or under the law of another state if the act occurred in that state;

34 ~~((20))~~ (19) "Respondent" means a juvenile who is alleged or
35 proven to have committed an offense;

36 ~~((21))~~ (20) "Restitution" means financial reimbursement by the
37 offender to the victim, and shall be limited to easily ascertainable
38 damages for injury to or loss of property, actual expenses incurred for
39 medical treatment for physical injury to persons, lost wages resulting

1 from physical injury, and costs of the victim's counseling reasonably
2 related to the offense if the offense is a sex offense. Restitution
3 shall not include reimbursement for damages for mental anguish, pain
4 and suffering, or other intangible losses. Nothing in this chapter
5 shall limit or replace civil remedies or defenses available to the
6 victim or offender;

7 ~~((22))~~ (21) "Secretary" means the secretary of the department of
8 social and health services. "Assistant secretary" means the assistant
9 secretary for juvenile rehabilitation for the department;

10 ~~((23))~~ (22) "Services" means services which provide alternatives
11 to incarceration for those juveniles who have pleaded or been
12 adjudicated guilty of an offense or have signed a diversion agreement
13 pursuant to this chapter;

14 ~~((24))~~ (23) "Sex offense" means an offense defined as a sex
15 offense in RCW 9.94A.030;

16 ~~((25))~~ (24) "Sexual motivation" means that one of the purposes
17 for which the respondent committed the offense was for the purpose of
18 his or her sexual gratification;

19 ~~((26))~~ (25) "Foster care" means temporary physical care in a
20 foster family home or group care facility as defined in RCW 74.15.020
21 and licensed by the department, or other legally authorized care;

22 ~~((27))~~ (26) "Violation" means an act or omission, which if
23 committed by an adult, must be proven beyond a reasonable doubt, and is
24 punishable by sanctions which do not include incarceration;

25 ~~((28))~~ (27) "Violent offense" means a violent offense as defined
26 in RCW 9.94A.030;

27 ~~((29))~~ (28) "Probation bond" means a bond, posted with sufficient
28 security by a surety justified and approved by the court, to secure the
29 offender's appearance at required court proceedings and compliance with
30 court-ordered community supervision or conditions of release ordered
31 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
32 cash or posting of other collateral in lieu of a bond if approved by
33 the court;

34 ~~((30))~~ (29) "Surety" means an entity licensed under state
35 insurance laws or by the state department of licensing, to write
36 corporate, property, or probation bonds within the state, and justified
37 and approved by the superior court of the county having jurisdiction of
38 the case.

1		Burglary and Trespass	
2	B+	Burglary 1 (9A.52.020)	C+
3	<u>B</u>	<u>Residential Burglary</u>	
4		<u>(9A.52.025)</u>	<u>C</u>
5	B	Burglary 2 (9A.52.030)	C
6	D	Burglary Tools (Possession of)	
7		(9A.52.060)	E
8	D	Criminal Trespass 1 (9A.52.070)	E
9	E	Criminal Trespass 2 (9A.52.080)	E
10	<u>C</u>	<u>Vehicle Prowling 1 (9A.52.095)</u>	<u>D</u>
11	D	Vehicle Prowling 2 (9A.52.100)	E
12		Drugs	
13	E	Possession/Consumption of Alcohol	
14		(66.44.270)	E
15	C	Illegally Obtaining Legend Drug	
16		(69.41.020)	D
17	C+	Sale, Delivery, Possession of Legend	
18		Drug with Intent to Sell	
19		(69.41.030)	D+
20	E	Possession of Legend Drug	
21		(69.41.030)	E
22	B+	Violation of Uniform Controlled	
23		Substances Act - Narcotic or	
24		Methamphetamine Sale	
25		(69.50.401(a)(1)(i) or (ii))	B+
26	C	Violation of Uniform Controlled	
27		Substances Act - Nonnarcotic Sale	
28		(69.50.401(a)(1)(iii))	C
29	E	Possession of Marihuana <40 grams	
30		(69.50.401(e))	E
31	C	Fraudulently Obtaining Controlled	
32		Substance (69.50.403)	C
33	C+	Sale of Controlled Substance	
34		for Profit (69.50.410)	C+
35	E	Unlawful Inhalation (9.47A.020)	E
36	B	Violation of Uniform Controlled	
37		Substances Act - Narcotic or	
38		Methamphetamine	

1		Counterfeit Substances	
2		(69.50.401(b)(1)(i) or (ii))	B
3	C	Violation of Uniform Controlled	
4		Substances Act - Nonnarcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1) (iii), (iv),	
7		(v))	C
8	C	Violation of Uniform Controlled	
9		Substances Act - Possession of a	
10		Controlled Substance	
11		(69.50.401(d))	C
12	C	Violation of Uniform Controlled	
13		Substances Act - Possession of a	
14		Controlled Substance	
15		(69.50.401(c))	C
16		Firearms and Weapons	
17	<u>B</u>	<u>Theft of Firearm (9A.56.300)</u>	<u>C</u>
18	<u>B</u>	<u>Possession of Stolen Firearm</u>	
19		<u>(9A.56.310)</u>	<u>C</u>
20	E	Carrying Loaded Pistol Without	
21		Permit (9.41.050)	E
22	C	Possession of Firearms by Minor (<18)	
23		(9.41.040(1) (b)(iv) (iii))	C
24	D+	Possession of Dangerous Weapon	
25		(9.41.250)	E
26	D	Intimidating Another Person by use	
27		of Weapon (9.41.270)	E
28		Homicide	
29	A+	Murder 1 (9A.32.030)	A
30	A+	Murder 2 (9A.32.050)	B+
31	B+	Manslaughter 1 (9A.32.060)	C+
32	C+	Manslaughter 2 (9A.32.070)	D+
33	B+	Vehicular Homicide (46.61.520)	C+
34		Kidnapping	
35	A	Kidnap 1 (9A.40.020)	B+
36	B+	Kidnap 2 (9A.40.030)	C+

1	C+	Unlawful Imprisonment	
2		(9A.40.040)	D+
3		Obstructing Governmental Operation	
4		(E)	
5	<u>D</u>	Obstructing a Law Enforcement	
6		Officer (9A.76.020)	E
7	E	Resisting Arrest (9A.76.040)	E
8	B	Introducing Contraband 1	
9		(9A.76.140)	C
10	C	Introducing Contraband 2	
11		(9A.76.150)	D
12	E	Introducing Contraband 3	
13		(9A.76.160)	E
14	B+	Intimidating a Public Servant	
15		(9A.76.180)	C+
16	B+	Intimidating a Witness	
17		(9A.72.110)	C+
18		Public Disturbance	
19	C+	Riot with Weapon (9A.84.010)	D+
20	D+	Riot Without Weapon	
21		(9A.84.010)	E
22	E	Failure to Disperse (9A.84.020)	E
23	E	Disorderly Conduct (9A.84.030)	E
24		Sex Crimes	
25	A	Rape 1 (9A.44.040)	B+
26	A-	Rape 2 (9A.44.050)	B+
27	C+	Rape 3 (9A.44.060)	D+
28	A-	Rape of a Child 1 (9A.44.073)	B+
29	<u>B±</u>	Rape of a Child 2 (9A.44.076)	C+
30	B	Incest 1 (9A.64.020(1))	C
31	C	Incest 2 (9A.64.020(2))	D
32	D+	Indecent Exposure	
33		(Victim <14) (9A.88.010)	E
34	E	Indecent Exposure	
35		(Victim 14 or over) (9A.88.010)	E
36	B+	Promoting Prostitution 1	
37		(9A.88.070)	C+

1	C+	Promoting Prostitution 2	
2		(9A.88.080)	D+
3	E	O & A (Prostitution) (9A.88.030)	E
4	B+	Indecent Liberties (9A.44.100)	C+
5	(B+)		((C+))
6	<u>A-</u>	Child Molestation 1 (9A.44.083)	<u>B+</u>
7	((C+))		
8	<u>B</u>	Child Molestation 2 (9A.44.086)	<u>C±</u>
9		Theft, Robbery, Extortion, and Forgery	
10	B	Theft 1 (9A.56.030)	C
11	C	Theft 2 (9A.56.040)	D
12	D	Theft 3 (9A.56.050)	E
13	B	Theft of Livestock (9A.56.080)	C
14	C	Forgery (9A.60.020)	D
15	A	Robbery 1 (9A.56.200)	B+
16	B+	Robbery 2 (9A.56.210)	C+
17	B+	Extortion 1 (9A.56.120)	C+
18	C+	Extortion 2 (9A.56.130)	D+
19	B	Possession of Stolen Property 1	
20		(9A.56.150)	C
21	C	Possession of Stolen Property 2	
22		(9A.56.160)	D
23	D	Possession of Stolen Property 3	
24		(9A.56.170)	E
25	C	Taking Motor Vehicle Without	
26		Owner's Permission (9A.56.070)	D
27		Motor Vehicle Related Crimes	
28	E	Driving Without a License	
29		(46.20.021)	E
30	C	Hit and Run - Injury	
31		(46.52.020(4))	D
32	D	Hit and Run-Attended	
33		(46.52.020(5))	E
34	E	Hit and Run-Unattended	
35		(46.52.010)	E
36	C	Vehicular Assault (46.61.522)	D
37	C	Attempting to Elude Pursuing	
38		Police Vehicle (46.61.024)	D

1	E	Reckless Driving (46.61.500)	E
2	D	Driving While Under the Influence	
3		(46.61.502 and 46.61.504)	E
4	(D)	Vehicle Prowling (9A.52.100)	E
5	C	Taking Motor Vehicle Without	
6		Owner's Permission (9A.56.070)	D))
7		Other	
8	B	Bomb Threat (9.61.160)	C
9	C	Escape 1 ¹ (9A.76.110)	C
10	C	Escape 2 ¹ (9A.76.120)	C
11	D	Escape 3 (9A.76.130)	E
12	E	Obscene, Harassing, Etc.,	
13		Phone Calls (9.61.230)	E
14	A	Other Offense Equivalent to an	
15		Adult Class A Felony	B+
16	B	Other Offense Equivalent to an	
17		Adult Class B Felony	C
18	C	Other Offense Equivalent to an	
19		Adult Class C Felony	D
20	D	Other Offense Equivalent to an	
21		Adult Gross Misdemeanor	E
22	E	Other Offense Equivalent to an	
23		Adult Misdemeanor	E
24	V	Violation of Order of Restitution,	
25		Community Supervision, or	
26		Confinement (13.40.200) ²	V

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

29 1st escape or attempted escape during 12-month period - 4 weeks
30 confinement

31 2nd escape or attempted escape during 12-month period - 8 weeks
32 confinement

33 3rd and subsequent escape or attempted escape during 12-month
34 period - 12 weeks confinement

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

1 **SCHEDULE B**

2 **PRIOR OFFENSE INCREASE FACTOR**

3 For use with all CURRENT OFFENSES occurring on or after July 1,
4 1989.

5 **TIME SPAN**

6 OFFENSE	0-12	13-24	25 Months
7 CATEGORY	Months	Months	or More
8			
9 A+	.9	.9	.9
10 A	.9	.8	.6
11 A-	.9	.8	.5
12 B+	.9	.7	.4
13 B	.9	.6	.3
14 C+	.6	.3	.2
15 C	.5	.2	.2
16 D+	.3	.2	.1
17 D	.2	.1	.1
18 E	.1	.1	.1

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

23 **SCHEDULE C**

24 **CURRENT OFFENSE POINTS**

25 For use with all CURRENT OFFENSES occurring on or after July 1,
26 1989.

27 **AGE**

28 OFFENSE	12 &					
29 CATEGORY	Under	13	14	15	16	17
30						
31 A+	STANDARD RANGE 180-224 WEEKS					
32 A	250	300	350	375	375	375
33 A-	150	150	150	200	200	200
34 B+	110	110	120	130	140	150
35 B	45	45	50	50	57	57

1	C+	44	44	49	49	55	55
2	C	40	40	45	45	50	50
3	D+	16	18	20	22	24	26
4	D	14	16	18	20	22	24
5	E	4	4	4	6	8	10

JUVENILE SENTENCING STANDARDS
SCHEDULE D-1

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

MINOR/FIRST OFFENDER

OPTION A
STANDARD RANGE

		Community Supervision	Community Service Hours	Fine
14				
15				
16	Points			
17			
18	1-9	0-3 months	and/or 0-8	and/or 0-\$10
19	10-19	0-3 months	and/or 0-8	and/or 0-\$10
20	20-29	0-3 months	and/or 0-16	and/or 0-\$10
21	30-39	0-3 months	and/or 8-24	and/or 0-\$25
22	40-49	3-6 months	and/or 16-32	and/or 0-\$25
23	50-59	3-6 months	and/or 24-40	and/or 0-\$25
24	60-69	6-9 months	and/or 32-48	and/or 0-\$50
25	70-79	6-9 months	and/or 40-56	and/or 0-\$50
26	80-89	9-12 months	and/or 48-64	and/or 10-\$100
27	90-109	9-12 months	and/or 56-72	and/or 10-\$100

OR

OPTION B
STATUTORY OPTION

- 31 0-12 Months Community Supervision
- 32 0-150 Hours Community Service
- 33 0-100 Fine
- 34 Posting of a Probation Bond

1 A term of community supervision with a maximum of 150 hours, \$100.00
2 fine, and 12 months supervision.

3 OR

4 OPTION C

5 MANIFEST INJUSTICE

6 When a term of community supervision would effectuate a manifest
7 injustice, another disposition may be imposed. When a judge imposes a
8 sentence of confinement exceeding 30 days, the court shall sentence the
9 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
10 be used to determine the range.

11 JUVENILE SENTENCING STANDARDS

12 SCHEDULE D-2

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

16 MIDDLE OFFENDER

17 OPTION A

18 STANDARD RANGE

	Community Supervision	Community Service Hours	Fine	Confinement Days Weeks
19				
20				
21	Points			
22			
23	1-9	0-3 months	and/or 0-8	and/or 0-\$10 and/or 0
24	10-19	0-3 months	and/or 0-8	and/or 0-\$10 and/or 0
25	20-29	0-3 months	and/or 0-16	and/or 0-\$10 and/or 0
26	30-39	0-3 months	and/or 8-24	and/or 0-\$25 and/or 2-4
27	40-49	3-6 months	and/or 16-32	and/or 0-\$25 and/or 2-4
28	50-59	3-6 months	and/or 24-40	and/or 0-\$25 and/or 5-10
29	60-69	6-9 months	and/or 32-48	and/or 0-\$50 and/or 5-10
30	70-79	6-9 months	and/or 40-56	and/or 0-\$50 and/or 10-20
31	80-89	9-12 months	and/or 48-64	and/or 0-\$100 and/or 10-20
32	90-109	9-12 months	and/or 56-72	and/or 0-\$100 and/or 15-30
33	110-129			8-12
34	130-149			13-16
35	150-199			21-28
36	200-249			30-40
37	250-299			52-65

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300-374
375+

80-100
103-129

Middle offenders with 110 points or more do not have to be committed.
They may be assigned community supervision under option B.
All A+ offenses 180-224 weeks

OR

**OPTION B
STATUTORY OPTION**

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

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

If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender fails to comply with the terms of community supervision, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order execution of the disposition. If the court imposes confinement for offenders with 110 points or more, the court shall state either aggravating or mitigating factors set forth in RCW 13.40.150.

OR

**OPTION C
MANIFEST INJUSTICE**

If the court determines that a disposition under option A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

1 **JUVENILE SENTENCING STANDARDS**

2 **SCHEDULE D-3**

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

6 **SERIOUS OFFENDER**

7 **OPTION A**

8 **STANDARD RANGE**

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

19 **OR**

20 **OPTION B**

21 **MANIFEST INJUSTICE**

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

28 This section expires July 1, 1998.

29 **Sec. 12.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to
30 read as follows:

((~~SCHEDULE A~~))

DESCRIPTION AND OFFENSE CATEGORY

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

.....

Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is	
	E class) (9A.48.090)	E
E	Tampering with Fire Alarm	
	Apparatus (9.40.100)	E
A	Possession of Incendiary Device	
	(9.40.120)	B+

**Assault and Other Crimes
Involving Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
<u>B+</u>	<u>Drive-By Shooting</u>	
	<u>(9A.36.045)</u>	<u>C+</u>
D+	Reckless Endangerment	
	(9A.36.050)	E
C+	Promoting Suicide Attempt	
	(9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
----	------------------------	----

1	<u>B</u>	<u>Residential Burglary</u>	
2		(9A.52.025)	<u>C</u>
3	B	Burglary 2 (9A.52.030)	C
4	D	Burglary Tools (Possession of)	
5		(9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	<u>C</u>	<u>Vehicle Prowling 1 (9A.52.095)</u>	<u>D</u>
9	D	Vehicle Prowling <u>2</u> (9A.52.100)	E
10		Drugs	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend	
16		Drug with Intent to Sell	
17		(69.41.030)	D+
18	E	Possession of Legend Drug	
19		(69.41.030)	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic or	
22		Methamphetamine Sale	
23		(69.50.401(a)(1)(i) or (ii))	B+
24	C	Violation of Uniform Controlled	
25		Substances Act - Nonnarcotic Sale	
26		(69.50.401(a)(1)(iii))	C
27	E	Possession of Marihuana <40 grams	
28		(69.50.401(e))	E
29	C	Fraudulently Obtaining Controlled	
30		Substance (69.50.403)	C
31	C+	Sale of Controlled Substance	
32		for Profit (69.50.410)	C+
33	E	Unlawful Inhalation (9.47A.020)	E
34	B	Violation of Uniform Controlled	
35		Substances Act - Narcotic or	
36		Methamphetamine	
37		Counterfeit Substances	
38		(69.50.401(b)(1)(i) or (ii))	B

1	C	Violation of Uniform Controlled	
2		Substances Act - Nonnarcotic	
3		Counterfeit Substances	
4		(69.50.401(b)(1) (iii), (iv),	
5		(v))	C
6	C	Violation of Uniform Controlled	
7		Substances Act - Possession of a	
8		Controlled Substance	
9		(69.50.401(d))	C
10	C	Violation of Uniform Controlled	
11		Substances Act - Possession of a	
12		Controlled Substance	
13		(69.50.401(c))	C
14		Firearms and Weapons	
15	<u>B</u>	<u>Theft of Firearm (9A.56.300)</u>	<u>C</u>
16	<u>B</u>	<u>Possession of Stolen Firearm</u>	
17		<u>(9A.56.310)</u>	<u>C</u>
18	E	Carrying Loaded Pistol Without	
19		Permit (9.41.050)	E
20	C	Possession of Firearms by Minor (<18)	
21		(9.41.040(1) (b)(iv) (iii))	C
22	D+	Possession of Dangerous Weapon	
23		(9.41.250)	E
24	D	Intimidating Another Person by use	
25		of Weapon (9.41.270)	E
26		Homicide	
27	A+	Murder 1 (9A.32.030)	A
28	A+	Murder 2 (9A.32.050)	B+
29	B+	Manslaughter 1 (9A.32.060)	C+
30	C+	Manslaughter 2 (9A.32.070)	D+
31	B+	Vehicular Homicide (46.61.520)	C+
32		Kidnapping	
33	A	Kidnap 1 (9A.40.020)	B+
34	B+	Kidnap 2 (9A.40.030)	C+
35	C+	Unlawful Imprisonment	
36		(9A.40.040)	D+

1		Obstructing Governmental Operation	
2		(E)	
3	<u>D</u>	Obstructing a Law Enforcement	
4		Officer (9A.76.020)	E
5	E	Resisting Arrest (9A.76.040)	E
6	B	Introducing Contraband 1	
7		(9A.76.140)	C
8	C	Introducing Contraband 2	
9		(9A.76.150)	D
10	E	Introducing Contraband 3	
11		(9A.76.160)	E
12	B+	Intimidating a Public Servant	
13		(9A.76.180)	C+
14	B+	Intimidating a Witness	
15		(9A.72.110)	C+
16		Public Disturbance	
17	C+	Riot with Weapon (9A.84.010)	D+
18	D+	Riot Without Weapon	
19		(9A.84.010)	E
20	E	Failure to Disperse (9A.84.020)	E
21	E	Disorderly Conduct (9A.84.030)	E
22		Sex Crimes	
23	A	Rape 1 (9A.44.040)	B+
24	A-	Rape 2 (9A.44.050)	B+
25	C+	Rape 3 (9A.44.060)	D+
26	A-	Rape of a Child 1 (9A.44.073)	B+
27	B _±	Rape of a Child 2 (9A.44.076)	C+
28	B	Incest 1 (9A.64.020(1))	C
29	C	Incest 2 (9A.64.020(2))	D
30	D+	Indecent Exposure	
31		(Victim <14) (9A.88.010)	E
32	E	Indecent Exposure	
33		(Victim 14 or over) (9A.88.010)	E
34	B+	Promoting Prostitution 1	
35		(9A.88.070)	C+
36	C+	Promoting Prostitution 2	
37		(9A.88.080)	D+
38	E	O & A (Prostitution) (9A.88.030)	E

1	B+	Indecent Liberties (9A.44.100)	C+
2	(B+)		((C+))
3	<u>A-</u>	Child Molestation 1 (9A.44.083)	<u>B+</u>
4	((C+))		
5	<u>B</u>	Child Molestation 2 (9A.44.086)	<u>C±</u>
6		Theft, Robbery, Extortion, and Forgery	
7	B	Theft 1 (9A.56.030)	C
8	C	Theft 2 (9A.56.040)	D
9	D	Theft 3 (9A.56.050)	E
10	B	Theft of Livestock (9A.56.080)	C
11	C	Forgery (9A.60.020)	D
12	A	Robbery 1 (9A.56.200)	B+
13	B+	Robbery 2 (9A.56.210)	C+
14	B+	Extortion 1 (9A.56.120)	C+
15	C+	Extortion 2 (9A.56.130)	D+
16	B	Possession of Stolen Property 1	
17		(9A.56.150)	C
18	C	Possession of Stolen Property 2	
19		(9A.56.160)	D
20	D	Possession of Stolen Property 3	
21		(9A.56.170)	E
22	C	Taking Motor Vehicle Without	
23		Owner's Permission (9A.56.070)	D
24		Motor Vehicle Related Crimes	
25	E	Driving Without a License	
26		(46.20.021)	E
27	C	Hit and Run - Injury	
28		(46.52.020(4))	D
29	D	Hit and Run-Attended	
30		(46.52.020(5))	E
31	E	Hit and Run-Unattended	
32		(46.52.010)	E
33	C	Vehicular Assault (46.61.522)	D
34	C	Attempting to Elude Pursuing	
35		Police Vehicle (46.61.024)	D
36	E	Reckless Driving (46.61.500)	E
37	D	Driving While Under the Influence	
38		(46.61.502 and 46.61.504)	E

1		((D Vehicle Prowling (9A.52.100) E	
2		C Taking Motor Vehicle Without	
3		Owner's Permission (9A.56.070) D))	
4		Other	
5	B	Bomb Threat (9.61.160)	C
6	C	Escape 1 ¹ (9A.76.110)	C
7	C	Escape 2 ¹ (9A.76.120)	C
8	D	Escape 3 (9A.76.130)	E
9	E	Obscene, Harassing, Etc.,	
10		Phone Calls (9.61.230)	E
11	A	Other Offense Equivalent to an	
12		Adult Class A Felony	B+
13	B	Other Offense Equivalent to an	
14		Adult Class B Felony	C
15	C	Other Offense Equivalent to an	
16		Adult Class C Felony	D
17	D	Other Offense Equivalent to an	
18		Adult Gross Misdemeanor	E
19	E	Other Offense Equivalent to an	
20		Adult Misdemeanor	E
21	V	Violation of Order of Restitution,	
22		Community Supervision, or	
23		Confinement (13.40.200) ²	V

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

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

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

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

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

34 ~~((SCHEDULE B~~
35 ~~PRIOR OFFENSE INCREASE FACTOR~~

1 ~~For use with all CURRENT OFFENSES occurring on or after July 1,~~
2 ~~1989.~~

3 ~~TIME SPAN~~

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

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

21 ~~SCHEDULE C~~

22 ~~CURRENT OFFENSE POINTS~~

23 ~~For use with all CURRENT OFFENSES occurring on or after July 1,~~
24 ~~1989.~~

25 ~~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

1 ~~D 14 16 18 20 22 24~~
2 ~~E 4 4 4 6 8 10~~

3 **JUVENILE SENTENCING STANDARDS**
4 **((SCHEDULE D-1))**

5 This schedule ~~((may only))~~ must be used for ~~((minor/first))~~ juvenile
6 offenders. ~~((After the determination is made that a youth is a~~
7 ~~minor/first offender,))~~ The court ~~((has the discretion to))~~ may select
8 sentencing option A, B, or C.

9 **((MINOR/FIRST OFFENDER**

10 ~~OPTION A~~

11 ~~STANDARD RANGE~~

12 ~~Community~~
13 ~~Community Service~~
14 ~~Points Supervision Hours Fine~~
15 ~~.....~~

16	1-9	0-3 months	and/or 0-8	and/or 0-\$10
17	10-19	0-3 months	and/or 0-8	and/or 0-\$10
18	20-29	0-3 months	and/or 0-16	and/or 0-\$10
19	30-39	0-3 months	and/or 8-24	and/or 0-\$25
20	40-49	3-6 months	and/or 16-32	and/or 0-\$25
21	50-59	3-6 months	and/or 24-40	and/or 0-\$25
22	60-69	6-9 months	and/or 32-48	and/or 0-\$50
23	70-79	6-9 months	and/or 40-56	and/or 0-\$50
24	80-89	9-12 months	and/or 48-64	and/or 10-\$100
25	90-109	9-12 months	and/or 56-72	and/or 10-\$100

26 ~~OR~~

27 ~~OPTION B~~

28 ~~STATUTORY OPTION~~

29 ~~0-12 Months Community Supervision~~

30 ~~0-150 Hours Community Service~~

31 ~~0-100 Fine~~

32 ~~Posting of a Probation Bond~~

33 ~~A term of community supervision with a maximum of 150 hours, \$100.00~~
34 ~~fine, and 12 months supervision.~~

1 ~~OR~~

2 ~~OPTION C~~

3 ~~MANIFEST INJUSTICE~~

4 ~~When a term of community supervision would effectuate a manifest~~
5 ~~injustice, another disposition may be imposed. When a judge imposes a~~
6 ~~sentence of confinement exceeding 30 days, the court shall sentence the~~
7 ~~juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall~~
8 ~~be used to determine the range.~~

9 ~~JUVENILE SENTENCING STANDARDS~~

10 ~~SCHEDULE D-2~~

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

14 ~~MIDDLE OFFENDER~~

15 ~~OPTION A~~

16 ~~STANDARD RANGE~~

	Community	Community Service	Confinement
	Points	Supervision Hours	Fine Days Weeks
17		
21	1-9	0-3 months	and/or 0-8 and/or 0-\$10 and/or 0
22	10-19	0-3 months	and/or 0-8 and/or 0-\$10 and/or 0
23	20-29	0-3 months	and/or 0-16 and/or 0-\$10 and/or 0
24	30-39	0-3 months	and/or 8-24 and/or 0-\$25 and/or 2-4
25	40-49	3-6 months	and/or 16-32 and/or 0-\$25 and/or 2-4
26	50-59	3-6 months	and/or 24-40 and/or 0-\$25 and/or 5-10
27	60-69	6-9 months	and/or 32-48 and/or 0-\$50 and/or 5-10
28	70-79	6-9 months	and/or 40-56 and/or 0-\$50 and/or 10-20
29	80-89	9-12 months	and/or 48-64 and/or 0-\$100 and/or 10-20
30	90-109	9-12 months	and/or 56-72 and/or 0-\$100 and/or 15-30
31	110-129		8-12
32	130-149		13-16
33	150-199		21-28
34	200-249		30-40
35	250-299		52-65
36	300-374		80-100
37	375+		103-129

38 ~~Middle offenders with 110 points or more do not have to be committed.~~
39 ~~They may be assigned community supervision under option B.~~

1 ~~All A+ offenses 180-224 weeks)~~)

1 **OPTION A**

2 **JUVENILE OFFENDER SENTENCING GRID**

3 **STANDARD RANGE**

4 _____
5 A+ 180 WEEKS TO AGE 21 YEARS
6 _____

7 A 103 WEEKS TO 129 WEEKS
8 _____

9 A- 15-36 | 52-65 | 80-100 | 103-129

10 WEEKS | WEEKS | WEEKS | WEEKS

11 EXCEPT | | |

12 30-40 | | |

13 WEEKS FOR | | |

14 15-17 | | |

15 YEAR OLDS | | |
16 _____

17 Current B+ 15-36 | 52-65 | 80-100 | 103-129

18 Offense WEEKS | WEEKS | WEEKS | WEEKS

19 Category _____

20 B LOCAL SANCTIONS (LS) | 52-65

21 | 15-36 WEEKS | WEEKS
22 _____

23 C+ LS |

24 | 15-36 WEEKS
25 _____

26 C LS | 15-36 WEEKS

27 |
28 _____

28 Local Sanctions:

29 0 to 30 Days _____

30 D+ LS 0 to 12 Months Community Supervision

31 0 to 150 Hours Community Service
32 _____

32 D LS \$0 to \$500 Fine
33 _____

33 E LS
34 _____

35 0

35 1

35 2

35 3

35 4 or more
36 _____

36 PRIOR ADJUDICATIONS

1 NOTE: References in the grid to days or weeks mean periods of
2 confinement.

3 (1) The vertical axis of the grid is the current offense category.
4 The current offense category is determined by the offense of
5 adjudication.

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

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

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

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

19 **OR**

20 **OPTION B**

21 **((STATUTORY OPTION))**

22 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

23 ~~((0-12 Months Community Supervision~~
24 ~~0-150 Hours Community Service~~
25 ~~0-100 Fine~~
26 ~~Posting of a Probation Bond~~

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

32 If the ((middle)) juvenile offender ((has 110 points or more)) is
33 subject to a standard range disposition of local sanctions or 15 to 36
34 weeks of confinement and has not committed an A- or B+ offense, the
35 court may impose a disposition under ((option A and may suspend the
36 disposition on the condition that the offender serve up to thirty days
37 of confinement and follow all conditions of community supervision. If

1 ~~the offender fails to comply with the terms of community supervision,~~
2 ~~the court may impose sanctions pursuant to RCW 13.40.200 or may revoke~~
3 ~~the suspended disposition and order execution of the disposition. If~~
4 ~~the court imposes confinement for offenders with 110 points or more,~~
5 ~~the court shall state either aggravating or mitigating factors set~~
6 ~~forth in RCW 13.40.150)) RCW 13.40.160(5) and section 26 of this act.~~

7 **OR**

8 **OPTION C**
9 **MANIFEST INJUSTICE**

10 If the court determines that a disposition under option A or B would
11 effectuate a manifest injustice, the court shall ~~((sentence the~~
12 ~~juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall~~
13 ~~be used to determine the range)) impose a disposition outside the
14 standard range under RCW 13.40.160(2).~~

15 ~~((**JUVENILE SENTENCING STANDARDS**~~
16 ~~**SCHEDULE D-3**~~

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

20 ~~**SERIOUS OFFENDER**~~
21 ~~**OPTION A**~~
22 ~~**STANDARD RANGE**~~

Points	Institution Time
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375+	103-129 weeks
All A+ Offenses	180-224 weeks

33 **OR**

1 ~~OPTION B~~

2 ~~MANIFEST INJUSTICE~~

3 ~~A disposition outside the standard range shall be determined and shall~~
4 ~~be comprised of confinement or community supervision including posting~~
5 ~~a probation bond or a combination thereof. When a judge finds a~~
6 ~~manifest injustice and imposes a sentence of confinement exceeding 30~~
7 ~~days, the court shall sentence the juvenile to a maximum term, and the~~
8 ~~provisions of RCW 13.40.030(2) shall be used to determine the range.)~~

9 **Sec. 13.** RCW 13.40.040 and 1995 c 395 s 4 are each amended to
10 read as follows:

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

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

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

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

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

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

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

28 (i) The juvenile will likely fail to appear for further
29 proceedings; or

30 (ii) Detention is required to protect the juvenile from himself or
31 herself; or

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

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

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

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

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

1 (d) The juvenile is a material witness.

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

6 (4) A juvenile detained under this section may be released upon
7 posting a probation bond set by the court. The juvenile's parent or
8 guardian may sign for the probation bond. A court authorizing such a
9 release shall issue an order containing a statement of conditions
10 imposed upon the juvenile and shall set the date of his or her next
11 court appearance. The court shall advise the juvenile of any
12 conditions specified in the order and may at any time amend such an
13 order in order to impose additional or different conditions of release
14 upon the juvenile or to return the juvenile to custody for failing to
15 conform to the conditions imposed. In addition to requiring the
16 juvenile to appear at the next court date, the court may condition the
17 probation bond on the juvenile's compliance with conditions of release.
18 The juvenile's parent or guardian may notify the court that the
19 juvenile has failed to conform to the conditions of release or the
20 provisions in the probation bond. If the parent notifies the court of
21 the juvenile's failure to comply with the probation bond, the court
22 shall notify the surety. As provided in the terms of the bond, the
23 surety shall provide notice to the court of the offender's
24 noncompliance. A juvenile may be released only to a responsible adult
25 or the department of social and health services. Failure to appear on
26 the date scheduled by the court pursuant to this section shall
27 constitute the crime of bail jumping.

28 **Sec. 14.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended
29 to read as follows:

30 The secretary, assistant secretary, or the secretary's designee
31 shall issue arrest warrants for juveniles who escape from department
32 residential custody. The secretary, assistant secretary, or the
33 secretary's designee may issue arrest warrants for juveniles who
34 abscond from parole supervision or fail to meet conditions of parole.
35 These arrest warrants shall authorize any law enforcement, probation
36 and parole, or peace officer of this state, or any other state where
37 the juvenile is located, to arrest the juvenile and to place the

1 juvenile in physical custody pending the juvenile's return to
2 confinement in a state juvenile rehabilitation facility.

3 **Sec. 15.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to
4 read as follows:

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

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

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

16 (2) Notice of the detention hearing, stating the time, place, and
17 purpose of the hearing, (~~and~~) stating the right to counsel, and
18 requiring attendance shall be given to the parent, guardian, or
19 custodian if such person can be found and shall also be given to the
20 juvenile if over twelve years of age.

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

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

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

34 (6) If detention is not necessary under RCW 13.40.040, (~~(as now or~~
35 ~~hereafter amended,)~~) the court shall impose the most appropriate of the
36 following conditions or, if necessary, any combination of the following
37 conditions:

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

3 (b) Place restrictions on the travel of the juvenile during the
4 period of release;

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

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

9 (e) Require that the juvenile return to detention during specified
10 hours; or

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

13 (7) A juvenile may be released only to a responsible adult or the
14 department.

15 (8) 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 (9) A person notified under this section who fails without
20 reasonable cause to appear and abide by the order of the court may be
21 proceeded against as for contempt of court. In determining whether a
22 parent, guardian, or custodian had reasonable cause not to appear, the
23 court may consider all factors relevant to the person's ability to
24 appear as summoned.

25 **Sec. 16.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
26 as follows:

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

33 (2) ~~((The case and copies of all legal and social documents~~
34 ~~pertaining thereto may in the discretion of the court be transferred to~~
35 ~~the county where the juvenile resides for a disposition hearing. All~~
36 ~~costs and arrangements for care and transportation of the juvenile in~~
37 ~~custody shall be the responsibility of the receiving county as of the~~

1 ~~date of the transfer of the juvenile to such county, unless the~~
2 ~~counties otherwise agree.~~

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

8 ((~~4~~)) (3) The court upon motion of any party or upon its own
9 motion may, at any time, transfer a proceeding to another juvenile
10 court when there is reason to believe that an impartial proceeding
11 cannot be held in the county in which the proceeding was begun.

12 **Sec. 17.** RCW 13.40.070 and 1994 sp.s. c 7 s 543 are each amended
13 to read as follows:

14 (1) Complaints referred to the juvenile court alleging the
15 commission of an offense shall be referred directly to the prosecutor.
16 The prosecutor, upon receipt of a complaint, shall screen the complaint
17 to determine whether:

18 (a) The alleged facts bring the case within the jurisdiction of
19 the court; and

20 (b) On a basis of available evidence there is probable cause to
21 believe that the juvenile did commit the offense.

22 (2) If the identical alleged acts constitute an offense under both
23 the law of this state and an ordinance of any city or county of this
24 state, state law shall govern the prosecutor's screening and charging
25 decision for both filed and diverted cases.

26 (3) If the requirements of subsections (1)(a) and (b) of this
27 section are met, the prosecutor shall either file an information in
28 juvenile court or divert the case, as set forth in subsections (5),
29 (6), and (7) of this section. If the prosecutor finds that the
30 requirements of subsection (1)(a) and (b) of this section are not met,
31 the prosecutor shall maintain a record, for one year, of such decision
32 and the reasons therefor. In lieu of filing an information or
33 diverting an offense a prosecutor may file a motion to modify community
34 supervision where such offense constitutes a violation of community
35 supervision.

36 (4) An information shall be a plain, concise, and definite written
37 statement of the essential facts constituting the offense charged. It

1 shall be signed by the prosecuting attorney and conform to chapter
2 10.37 RCW.

3 (5) Where a case is legally sufficient, the prosecutor shall file
4 an information with the juvenile court if:

5 (a) An alleged offender is accused of a class A felony, a class B
6 felony, an attempt to commit a class B felony, a class C felony listed
7 in RCW 9.94A.440(2) as a crime against persons or listed in RCW
8 9A.46.060 as a crime of harassment, or a class C felony that is a
9 violation of RCW 9.41.080 or (~~(9.41.040(1)(e), or any other offense~~
10 ~~listed in RCW 13.40.020(1) (b) or (c))~~) 9.41.040(1)(b)(iii); or

11 (b) An alleged offender is accused of a felony and has a criminal
12 history of any felony, or at least two gross misdemeanors, or at least
13 two misdemeanors; or

14 (c) An alleged offender has previously been committed to the
15 department; or

16 (d) An alleged offender has been referred by a diversion unit for
17 prosecution or desires prosecution instead of diversion; or

18 (e) An alleged offender has two or more diversion contracts on the
19 alleged offender's criminal history; or

20 (f) A special allegation has been filed that the offender or an
21 accomplice was armed with a firearm when the offense was committed.

22 (6) Where a case is legally sufficient the prosecutor shall divert
23 the case if the alleged offense is a misdemeanor or gross misdemeanor
24 or violation and the alleged offense is the offender's first offense or
25 violation. If the alleged offender is charged with a related offense
26 that must or may be filed under subsections (5) and (7) of this
27 section, a case under this subsection may also be filed.

28 (7) Where a case is legally sufficient and falls into neither
29 subsection (5) nor (6) of this section, it may be filed or diverted.
30 In deciding whether to file or divert an offense under this section the
31 prosecutor shall be guided only by the length, seriousness, and recency
32 of the alleged offender's criminal history and the circumstances
33 surrounding the commission of the alleged offense.

34 (8) Whenever a juvenile is placed in custody or, where not placed
35 in custody, referred to a (~~(diversionary)~~) diversion interview, the
36 parent or legal guardian of the juvenile shall be notified as soon as
37 possible concerning the allegation made against the juvenile and the
38 current status of the juvenile. Where a case involves victims of
39 crimes against persons or victims whose property has not been recovered

1 at the time a juvenile is referred to a (~~(diversionary))~~ diversion
2 unit, the victim shall be notified of the referral and informed how to
3 contact the unit.

4 (9) The responsibilities of the prosecutor under subsections (1)
5 through (8) of this section may be performed by a juvenile court
6 probation counselor for any complaint referred to the court alleging
7 the commission of an offense which would not be a felony if committed
8 by an adult, if the prosecutor has given sufficient written notice to
9 the juvenile court that the prosecutor will not review such complaints.

10 (10) The prosecutor, juvenile court probation counselor, or
11 diversion unit may, in exercising their authority under this section or
12 RCW 13.40.080, refer juveniles to mediation or victim offender
13 reconciliation programs. Such mediation or victim offender
14 reconciliation programs shall be voluntary for victims.

15 **Sec. 18.** RCW 13.40.077 and 1996 c 9 s 1 are each amended to read
16 as follows:

17 RECOMMENDED PROSECUTING STANDARDS
18 FOR CHARGING AND PLEA DISPOSITIONS

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

24 Evidentiary sufficiency.

25 (1) Decision not to prosecute.

26 STANDARD: A prosecuting attorney may decline to prosecute, even
27 though technically sufficient evidence to prosecute exists, in
28 situations where prosecution would serve no public purpose, would
29 defeat the underlying purpose of the law in question, or would result
30 in decreased respect for the law. The decision not to prosecute or
31 divert shall not be influenced by the race, gender, religion, or creed
32 of the suspect.

33 GUIDELINES/COMMENTARY:

34 Examples

35 The following are examples of reasons not to prosecute which could
36 satisfy the standard.

37 (a) Contrary to Legislative Intent - It may be proper to decline
38 to charge where the application of criminal sanctions would be clearly

1 contrary to the intent of the legislature in enacting the particular
2 statute.

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

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

6 (ii) Most members of society act as if it were no longer in
7 existence;

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

10 (iv) The statute has not been recently reconsidered by the
11 legislature.

12 This reason is not to be construed as the basis for declining
13 cases because the law in question is unpopular or because it is
14 difficult to enforce.

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

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

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

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

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

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

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

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

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

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

37 (f) High Disproportionate Cost of Prosecution - It may be proper
38 to decline to charge where the cost of locating or transporting, or the
39 burden on, prosecution witnesses is highly disproportionate to the

1 importance of prosecuting the offense in question. The reason should
2 be limited to minor cases and should not be relied upon in serious
3 cases.

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

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

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

17 (i) Assault cases where the victim has suffered little or no
18 injury;

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

21 (iii) Where doing so would not jeopardize the safety of society.
22 Care should be taken to insure that the victim's request is freely
23 made and is not the product of threats or pressure by the accused.

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

26 Notification

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

29 (2) Decision to prosecute.

30 STANDARD:

31 Crimes against persons will be filed if sufficient admissible
32 evidence exists, which, when considered with the most plausible,
33 reasonably foreseeable defense that could be raised under the evidence,
34 would justify conviction by a reasonable and objective fact-finder.
35 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
36 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
37 9A.64.020 the prosecutor should avoid pre-filing agreements or
38 diversions intended to place the accused in a program of treatment or

1 counseling, so that treatment, if determined to be beneficial, can be
2 proved under RCW 13.40.160(~~(+5)~~) (4).

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

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

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

12 (3) Selection of Charges/Degree of Charge

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

16 (i) Will significantly enhance the strength of the state's case at
17 trial; or

18 (ii) Will result in restitution to all victims.

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

20 Overcharging includes:

21 (i) Charging a higher degree;

22 (ii) Charging additional counts.

23 This standard is intended to direct prosecutors to charge those
24 crimes which demonstrate the nature and seriousness of a respondent's
25 criminal conduct, but to decline to charge crimes which are not
26 necessary to such an indication. Crimes which do not merge as a matter
27 of law, but which arise from the same course of conduct, do not all
28 have to be charged.

29 (4) Police Investigation

30 A prosecuting attorney is dependent upon law enforcement agencies
31 to conduct the necessary factual investigation which must precede the
32 decision to prosecute. The prosecuting attorney shall ensure that a
33 thorough factual investigation has been conducted before a decision to
34 prosecute is made. In ordinary circumstances the investigation should
35 include the following:

36 (a) The interviewing of all material witnesses, together with the
37 obtaining of written statements whenever possible;

38 (b) The completion of necessary laboratory tests; and

1 (c) The obtaining, in accordance with constitutional requirements,
2 of the suspect's version of the events.

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

6 (5) Exceptions

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

9 (a) Probable cause exists to believe the suspect is guilty; and

10 (b) The suspect presents a danger to the community or is likely to
11 flee if not apprehended; or

12 (c) The arrest of the suspect is necessary to complete the
13 investigation of the crime.

14 In the event that the exception (~~that~~ ~~to~~) to the standard is
15 applied, the prosecuting attorney shall obtain a commitment from the
16 law enforcement agency involved to complete the investigation in a
17 timely manner. If the subsequent investigation does not produce
18 sufficient evidence to meet the normal charging standard, the complaint
19 should be dismissed.

20 (6) Investigation Techniques

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

23 (a) Polygraph testing;

24 (b) Hypnosis;

25 (c) Electronic surveillance;

26 (d) Use of informants.

27 (7) Prefiling Discussions with Defendant

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

31 (8) Plea dispositions:

32 STANDARD

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

37 (b) In certain circumstances, a plea agreement with a respondent
38 in exchange for a plea of guilty to a charge or charges that may not
39 fully describe the nature of his or her criminal conduct may be

1 necessary and in the public interest. Such situations may include the
2 following:

3 (i) Evidentiary problems which make conviction of the original
4 charges doubtful;

5 (ii) The respondent's willingness to cooperate in the
6 investigation or prosecution of others whose criminal conduct is more
7 serious or represents a greater public threat;

8 (iii) A request by the victim when it is not the result of
9 pressure from the respondent;

10 (iv) The discovery of facts which mitigate the seriousness of the
11 respondent's conduct;

12 (v) The correction of errors in the initial charging decision;

13 (vi) The respondent's history with respect to criminal activity;

14 (vii) The nature and seriousness of the offense or offenses
15 charged;

16 (viii) The probable effect of witnesses.

17 (c) No plea agreement shall be influenced by the race, gender,
18 religion, or creed of the respondent. This includes but is not limited
19 to the prosecutor's decision to utilize such disposition alternatives
20 as (~~"Option B,"~~) the Special Sex Offender Disposition Alternative,
21 the Chemical Dependency Disposition Alternative, and manifest
22 injustice.

23 (9) Disposition recommendations:

24 STANDARD

25 The prosecutor may reach an agreement regarding disposition
26 recommendations.

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

29 **Sec. 19.** RCW 13.40.100 and 1979 c 155 s 62 are each amended to
30 read as follows:

31 (1) Upon the filing of an information the alleged offender shall
32 be notified by summons, warrant, or other method approved by the court
33 of the next required court appearance.

34 (2) If notice is by summons, the clerk of the court shall issue a
35 summons directed to the juvenile, if the juvenile is twelve or more
36 years of age, and another to the parents, guardian, or custodian, and
37 such other persons as appear to the court to be proper or necessary
38 parties to the proceedings, requiring them to appear personally before

1 the court at the time fixed to hear the petition. Where the custodian
2 is summoned, the parent or guardian or both shall also be served with
3 a summons.

4 (3) A copy of the information shall be attached to each summons.

5 (4) The summons shall advise the parties of the right to counsel.

6 (5) The judge may endorse upon the summons an order directing the
7 parents, guardian, or custodian having the custody or control of the
8 juvenile to bring the juvenile to the hearing.

9 (6) If it appears from affidavit or sworn statement presented to
10 the judge that there is probable cause for the issuance of a warrant of
11 arrest or that the juvenile needs to be taken into custody pursuant to
12 RCW 13.34.050 (~~(, as now or hereafter amended)~~), the judge may endorse
13 upon the summons an order that an officer serving the summons shall at
14 once take the juvenile into custody and take the juvenile to the place
15 of detention or shelter designated by the court.

16 (7) Service of summons may be made under the direction of the
17 court by any law enforcement officer or probation counselor.

18 (8) If the person summoned as herein provided fails without
19 reasonable cause to appear and abide the order of the court, the person
20 may be proceeded against as for contempt of court. In determining
21 whether a parent, guardian, or custodian had reasonable cause not to
22 appear, the court may consider all factors relevant to the person's
23 ability to appear as summoned.

24 **Sec. 20.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to
25 read as follows:

26 (1) The prosecutor, respondent, or the court on its own motion
27 may, before a hearing on the information on its merits, file a motion
28 requesting the court to transfer the respondent for adult criminal
29 prosecution and the matter shall be set for a hearing on the question
30 of declining jurisdiction. Unless waived by the court, the parties,
31 and their counsel, a decline hearing shall be held (~~(where)~~) when:

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

35 (b) The respondent is seventeen years of age and the information
36 alleges assault in the second degree, extortion in the first degree,
37 indecent liberties, child molestation in the second degree, kidnapping
38 in the second degree, or robbery in the second degree; or

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

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

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

12 NEW SECTION. Sec. 21. A new section is added to chapter 13.40
13 RCW to read as follows:

14 (1) A juvenile is eligible for deferred disposition unless he or
15 she:

- 16 (a) Is charged with a sex or violent offense;
- 17 (b) Has a criminal history which includes any felony;
- 18 (c) Has a prior deferred disposition or deferred adjudication; or
- 19 (d) Has two or more diversions.

20 (2) The juvenile court may, upon motion at least fourteen days
21 before commencement of trial and, after consulting the juvenile's
22 custodial parent or parents or guardian and with the consent of the
23 juvenile, continue the case for disposition for a period not to exceed
24 one year from the date the juvenile is found guilty. The court shall
25 consider whether the offender and the community will benefit from a
26 deferred disposition before deferring the disposition.

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

28 (a) Stipulate to the admissibility of the facts contained in the
29 written police report;

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

33 (c) Waive the following rights to: (i) A speedy disposition; and
34 (ii) call and confront witnesses.

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

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

4 (5) Any juvenile granted a deferral of disposition under this
5 section shall be placed under community supervision. The court may
6 impose any conditions of supervision that it deems appropriate
7 including posting a probation bond. Payment of restitution under RCW
8 13.40.190 shall be a condition of community supervision under this
9 section.

10 (6) A parent who signed for a probation bond has the right to
11 notify the counselor if the juvenile fails to comply with the bond or
12 conditions of supervision. The counselor shall notify the court and
13 surety of any failure to comply. A surety shall notify the court of
14 the juvenile's failure to comply with the probation bond. The state
15 shall bear the burden to prove, by a preponderance of the evidence,
16 that the juvenile has failed to comply with the terms of community
17 supervision.

18 (7) A juvenile's lack of compliance shall be determined by the
19 judge upon written motion by the prosecutor or the juvenile's juvenile
20 court community supervision counselor. If a juvenile fails to comply
21 with terms of supervision, the court shall enter an order of
22 disposition.

23 (8) At any time following deferral of disposition the court may,
24 following a hearing, continue the case for an additional one-year
25 period for good cause.

26 (9) At the conclusion of the period set forth in the order of
27 deferral and upon a finding by the court of full compliance with
28 conditions of supervision and payment of full restitution, the
29 respondent's conviction shall be vacated and the court shall dismiss
30 the case with prejudice.

31 **Sec. 22.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
32 read as follows:

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

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

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

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
9 its decision upon the record. Such findings shall set forth the
10 evidence 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 hearing.

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

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

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

30 (10) A person notified under this section who fails without
31 reasonable cause to appear and abide by the order of the court may be
32 proceeded against as for contempt of court. In determining whether a
33 parent, guardian, or custodian had reasonable cause not to appear, the
34 court may consider all factors relevant to the person's ability to
35 appear as summoned.

36 **Sec. 23.** RCW 13.40.135 and 1990 c 3 s 604 are each amended to
37 read as follows:

1 (1) The prosecuting attorney shall file a special allegation of
2 sexual motivation in every juvenile offense other than sex offenses as
3 defined in RCW 9.94A.030(~~(+29)~~) (33) (a) or (c) when sufficient
4 admissible evidence exists, which, when considered with the most
5 plausible, reasonably consistent defense that could be raised under the
6 evidence, would justify a finding of sexual motivation by a reasonable
7 and objective fact-finder.

8 (2) In a juvenile case wherein there has been a special allegation
9 the state shall prove beyond a reasonable doubt that the juvenile
10 committed the offense with a sexual motivation. The court shall make
11 a finding of fact of whether or not the sexual motivation was present
12 at the time of the commission of the offense. This finding shall not
13 be applied to sex offenses as defined in RCW 9.94A.030(~~(+29)~~) (33) (a)
14 or (c).

15 (3) The prosecuting attorney shall not withdraw the special
16 allegation of "sexual motivation" without approval of the court through
17 an order of dismissal. The court shall not dismiss the special
18 allegation unless it finds that such an order is necessary to correct
19 an error in the initial charging decision or unless there are
20 evidentiary problems which make proving the special allegation
21 doubtful.

22 **Sec. 24.** RCW 13.40.150 and 1995 c 268 s 5 are each amended to
23 read as follows:

24 (1) In disposition hearings all relevant and material evidence,
25 including oral and written reports, may be received by the court and
26 may be relied upon to the extent of its probative value, even though
27 such evidence may not be admissible in a hearing on the information.
28 The youth or the youth's counsel and the prosecuting attorney shall be
29 afforded an opportunity to examine and controvert written reports so
30 received and to cross-examine individuals making reports when such
31 individuals are reasonably available, but sources of confidential
32 information need not be disclosed. The prosecutor and counsel for the
33 juvenile may submit recommendations for disposition.

34 (2) For purposes of disposition:

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

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

1 (c) In no event may a disposition for a violation include
2 confinement.

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

6 (a) Consider the facts supporting the allegations of criminal
7 conduct by the respondent;

8 (b) Consider information and arguments offered by parties and
9 their counsel;

10 (c) Consider any predisposition reports;

11 (d) Consult with the respondent's parent, guardian, or custodian
12 on the appropriateness of dispositional options under consideration and
13 afford the respondent and the respondent's parent, guardian, or
14 custodian an opportunity to speak in the respondent's behalf;

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

17 (f) Determine the amount of restitution owing to the victim, if
18 any, or set a hearing for a later date to determine the amount;

19 (g) Determine (~~whether the respondent is a serious offender, a~~
20 ~~middle offender, or a minor or first offender~~) the respondent's
21 offender score;

22 (h) Consider whether or not any of the following mitigating
23 factors exist:

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

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

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

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

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

36 (i) Consider whether or not any of the following aggravating
37 factors exist:

1 (i) In the commission of the offense, or in flight therefrom, the
2 respondent inflicted or attempted to inflict serious bodily injury to
3 another;

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

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

7 (iv) The respondent has a recent criminal history or has failed to
8 comply with conditions of a recent dispositional order or diversion
9 agreement;

10 (v) The current offense included a finding of sexual motivation
11 pursuant to RCW 13.40.135;

12 (vi) The respondent was the leader of a criminal enterprise
13 involving several persons; ~~((and))~~

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

17 (viii) The standard range disposition is clearly too lenient
18 considering the seriousness of the juvenile's prior adjudications.

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

21 (a) The sex of the respondent;

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

24 (c) The creed or religion of the respondent or the respondent's
25 family;

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

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

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

33 **Sec. 25.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to
34 read as follows:

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

1 ~~(6) of this section.)~~ The standard range disposition for a juvenile
2 adjudicated of an offense is determined according to RCW 13.40.0357.

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

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

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

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

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

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

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

~~11 (3) Where a respondent is found to have committed an offense for
12 which the respondent declined to enter into a diversion agreement, the
13 court shall impose a term of community supervision limited to the
14 conditions allowed in a diversion agreement as provided in RCW
15 13.40.080(2).~~

~~16 (4) ((If a respondent is found to be a middle offender:~~

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

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

~~38 (c) Only if the court concludes, and enters reasons for its
39 conclusions, that disposition as provided in subsection (4) (a) or (b)~~

1 ~~of this section would effectuate a manifest injustice, the court shall~~
2 ~~sentence the juvenile to a maximum term, and the provisions of RCW~~
3 ~~13.40.030(2) shall be used to determine the range. The court's finding~~
4 ~~of manifest injustice shall be supported by clear and convincing~~
5 ~~evidence.~~

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

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

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

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

27 (a) (i) Frequency and type of contact between the offender and
28 therapist;

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

31 (iii) Monitoring plans, including any requirements regarding
32 living conditions, lifestyle requirements, and monitoring by family
33 members, legal guardians, or others;

34 (iv) Anticipated length of treatment; and

35 (v) Recommended crime-related prohibitions.

36 The court on its own motion may order, or on a motion by the state
37 shall order, a second examination regarding the offender's amenability
38 to treatment. The evaluator shall be selected by the party making the
39 motion. The defendant shall pay the cost of any second examination

1 ordered unless the court finds the defendant to be indigent in which
2 case the state shall pay the cost.

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

19 (b) (i) Devote time to a specific education, employment, or
20 occupation;

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

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

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

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

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

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

3 (viii) Comply with the conditions of any court-ordered probation
4 bond.

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

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

14 Except as provided in this subsection (~~(+5+)~~) (4), after July 1,
15 1991, examinations and treatment ordered pursuant to this subsection
16 shall only be conducted by sex offender treatment providers certified
17 by the department of health pursuant to chapter 18.155 RCW. A sex
18 offender therapist who examines or treats a juvenile sex offender
19 pursuant to this subsection does not have to be certified by the
20 department of health pursuant to chapter 18.155 RCW if the court finds
21 that: (A) The offender has already moved to another state or plans to
22 move to another state for reasons other than circumventing the
23 certification requirements; (B) no certified providers are available
24 for treatment within a reasonable geographical distance of the
25 offender's home; and (C) the evaluation and treatment plan comply with
26 this subsection (~~(+5+)~~) (4) and the rules adopted by the department of
27 health.

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

38 For purposes of this section, "victim" means any person who has
39 sustained emotional, psychological, physical, or financial injury to

1 person or property as a direct result of the crime charged. "Victim"
2 may also include a known parent or guardian of a victim who is a minor
3 child unless the parent or guardian is the perpetrator of the offense.

4 ~~((+6+))~~ A disposition entered under this subsection (4) is not
5 appealable under RCW 13.40.230.

6 (5) If the juvenile offender is subject to a standard range
7 disposition of local sanctions or 15 to 36 weeks of confinement and has
8 not committed an A- or B+ offense, the court may impose the disposition
9 alternative under section 26 of this act.

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

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

18 (8) Except as provided ~~((for in))~~ under subsection (4) ~~((+b+))~~ or
19 (5) of this section or ~~((RCW 13.40.125))~~ section 21 of this act, the
20 court shall not suspend or defer the imposition or the execution of the
21 disposition.

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

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

27 (1) When a juvenile offender is subject to a standard range
28 disposition of local sanctions or 15 to 36 weeks of confinement and has
29 not committed an A- or B+ offense, the court, on its own motion or the
30 motion of the state or the respondent if the evidence shows that the
31 offender may be chemically dependent, may order an examination by a
32 chemical dependency counselor from a chemical dependency treatment
33 facility approved under chapter 70.96A RCW to determine if the youth is
34 chemically dependent and amenable to treatment.

35 (2) The report of the examination shall include at a minimum the
36 following: The respondent's version of the facts and the official
37 version of the facts, the respondent's offense history, an assessment
38 of drug-alcohol problems and previous treatment attempts, the

1 respondent's social, educational, and employment situation, and other
2 evaluation measures used. The report shall set forth the sources of
3 the examiner's information.

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

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

9 (b) Availability of appropriate treatment;

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

13 (d) Anticipated length of treatment;

14 (e) Recommended crime-related prohibitions; and

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

16 (4) The court on its own motion may order, or on a motion by the
17 state shall order, a second examination regarding the offender's
18 amenability to treatment. The evaluator shall be selected by the party
19 making the motion. The defendant shall pay the cost of any examination
20 ordered under this subsection (4) or subsection (1) of this section
21 unless the court finds that the offender is indigent and no third party
22 insurance coverage is available, in which case the state shall pay the
23 cost.

24 (5)(a) After receipt of reports of the examination, the court
25 shall then consider whether the offender and the community will benefit
26 from use of this chemical dependency disposition alternative and
27 consider the victim's opinion whether the offender should receive a
28 treatment disposition under this section.

29 (b) If the court determines that this chemical dependency
30 disposition alternative is appropriate, then the court shall impose the
31 standard range for the offense, suspend execution of the disposition,
32 and place the offender on community supervision for up to one year. As
33 a condition of the suspended disposition, the court shall require the
34 offender to undergo available outpatient drug/alcohol treatment and/or
35 inpatient drug/alcohol treatment. For purposes of this section, the
36 sum of confinement time and inpatient treatment may not exceed ninety
37 days. As a condition of the suspended disposition, the court may
38 impose conditions of community supervision and other sanctions,
39 including up to thirty days of confinement, one hundred fifty hours of

1 community service, and payment of legal financial obligations and
2 restitution.

3 (6) The drug/alcohol treatment provider shall submit monthly
4 reports on the respondent's progress in treatment to the court and the
5 parties. The reports shall reference the treatment plan and include at
6 a minimum the following: Dates of attendance, respondent's compliance
7 with requirements, treatment activities, the respondent's relative
8 progress in treatment, and any other material specified by the court at
9 the time of the disposition.

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

12 If the offender violates any condition of the disposition or the
13 court finds that the respondent is failing to make satisfactory
14 progress in treatment, the court may revoke the suspension and order
15 execution of the disposition. The court shall give credit for any
16 confinement time previously served if that confinement was for the
17 offense for which the suspension is being revoked.

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

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

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

28 (10) A disposition under this section is not appealable under RCW
29 13.40.230.

30 NEW SECTION. **Sec. 27.** The University of Washington shall develop
31 standards for measuring effectiveness of treatment programs established
32 under section 26 of this act. The standards shall be developed and
33 presented to the governor and legislature not later than January 1,
34 1998. The standards shall include methods for measuring success
35 factors following treatment. Success factors shall include, but need
36 not be limited to, continued use of alcohol or controlled substances,
37 arrests, violations of terms of community supervision, and convictions
38 for subsequent offenses.

1 NEW SECTION. **Sec. 28.** A new section is added to chapter 70.96A
2 RCW to read as follows:

3 The department shall prioritize expenditures for treatment
4 provided under section 26 of this act. The department shall provide
5 funds for inpatient and outpatient treatment providers that are the
6 most successful, using the standards developed by the University of
7 Washington under section 27, chapter . . ., Laws of 1997 (section 27 of
8 this act). The department may consider variations between the nature
9 of the programs provided and clients served but must provide funds
10 first for those programs that demonstrate the greatest success in
11 treatment within categories of treatment and the nature of the persons
12 receiving treatment.

13 The department shall, not later than January 1st of each year,
14 provide a report to the governor and the legislature on the success
15 rates of programs funded under this section.

16 **Sec. 29.** RCW 13.40.190 and 1996 c 124 s 2 are each amended to
17 read as follows:

18 (1) In its dispositional order, the court shall require the
19 respondent to make restitution to any persons who have suffered loss or
20 damage as a result of the offense committed by the respondent. In
21 addition, restitution may be ordered for loss or damage if the offender
22 pleads guilty to a lesser offense or fewer offenses and agrees with the
23 prosecutor's recommendation that the offender be required to pay
24 restitution to a victim of an offense or offenses which, pursuant to a
25 plea agreement, are not prosecuted. The payment of restitution shall
26 be in addition to any punishment which is imposed pursuant to the other
27 provisions of this chapter. The court may determine the amount, terms,
28 and conditions of the restitution including a payment plan extending up
29 to ten years if the court determines that the respondent does not have
30 the means to make full restitution over a shorter period. Restitution
31 may include the costs of counseling reasonably related to the offense.
32 If the respondent participated in the crime with another person or
33 other persons, all such participants shall be jointly and severally
34 responsible for the payment of restitution. For the purposes of this
35 section, the respondent shall remain under the court's jurisdiction for
36 a maximum term of ten years after the respondent's eighteenth birthday.
37 ~~((The court may not require the respondent to pay full or partial~~
38 ~~restitution if the respondent reasonably satisfies the court that he or~~

1 ~~she does not have the means to make full or partial restitution and~~
2 ~~could not reasonably acquire the means to pay such restitution over a~~
3 ~~ten-year period.))~~

4 (2) Regardless of the provisions of subsection (1) of this
5 section, the court shall order restitution in all cases where the
6 victim is entitled to benefits under the crime victims' compensation
7 act, chapter 7.68 RCW. If the court does not order restitution and the
8 victim of the crime has been determined to be entitled to benefits
9 under the crime victims' compensation act, the department of labor and
10 industries, as administrator of the crime victims' compensation
11 program, may petition the court within one year of entry of the
12 disposition order for entry of a restitution order. Upon receipt of a
13 petition from the department of labor and industries, the court shall
14 hold a restitution hearing and shall enter a restitution order.

15 (3) If an order includes restitution as one of the monetary
16 assessments, the county clerk shall make disbursements to victims named
17 in the order. The restitution to victims named in the order shall be
18 paid prior to any payment for other penalties or monetary assessments.

19 (4) A respondent under obligation to pay restitution may petition
20 the court for modification of the restitution order.

21 **Sec. 30.** RCW 13.40.193 and 1994 sp.s. c 7 s 525 are each amended
22 to read as follows:

23 (1) If a respondent is found to have been in possession of a
24 firearm in violation of RCW 9.41.040(1) ~~((e))~~ (b)(iii), the court
25 shall impose a ~~((determinate))~~ minimum disposition of ten days of
26 confinement ~~((and up to twelve months of community supervision))~~. If
27 the offender's standard range of disposition for the offense as
28 indicated in RCW 13.40.0357 is more than thirty days of confinement,
29 the court shall commit the offender to the department for the standard
30 range disposition. The offender shall not be released until the
31 offender has served a minimum of ten days in confinement.

32 (2) If the court finds that the respondent or an accomplice was
33 armed with a firearm, the court shall determine the standard range
34 disposition for the offense pursuant to RCW 13.40.160. ~~((Ninety days~~
35 ~~of confinement shall be added to the entire standard range disposition~~
36 ~~of confinement))~~ If the offender or an accomplice was armed with a
37 firearm when the offender committed ~~((: (a) Any violent offense; or (b)~~
38 ~~escape in the first degree; burglary in the second degree; theft of~~

1 ~~livestock in the first or second degree; or any felony drug offense.~~
2 ~~If the offender or an accomplice was armed with a firearm and the~~
3 ~~offender is being adjudicated for an anticipatory felony offense under~~
4 ~~chapter 9A.28 RCW to commit one of the offenses listed in this~~
5 ~~subsection, ninety days shall be added to the entire standard range~~
6 ~~disposition of confinement)) any felony other than possession of a~~
7 ~~machine gun, possession of a stolen firearm, drive-by shooting, theft~~
8 ~~of a firearm, unlawful possession of a firearm in the first and second~~
9 ~~degree, or use of a machine gun in a felony, the following periods of~~
10 ~~total confinement must be added to the sentence: For a class A felony,~~
11 ~~six months; for a class B felony, four months; and for a class C~~
12 ~~felony, two months.~~ The ((~~ninety days~~)) additional time shall be
13 imposed regardless of the offense's juvenile disposition offense
14 category as designated in RCW 13.40.0357. ((~~The department shall not~~
15 ~~release the offender until the offender has served a minimum of ninety~~
16 ~~days in confinement, unless the juvenile is committed to and~~
17 ~~successfully completes the juvenile offender basic training camp~~
18 ~~disposition option.))~~

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

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

33 **Sec. 31.** RCW 13.40.200 and 1995 c 395 s 8 are each amended to
34 read as follows:

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

1 (2) The hearing shall afford the respondent the same due process
2 of law as would be afforded an adult probationer. The court may issue
3 a summons or a warrant to compel the respondent's appearance. The
4 state shall have the burden of proving by a preponderance of the
5 evidence the fact of the violation. The respondent shall have the
6 burden of showing that the violation was not a willful refusal to
7 comply with the terms of the order. If a respondent has failed to pay
8 a fine, penalty assessments, or restitution or to perform community
9 service hours, as required by the court, it shall be the respondent's
10 burden to show that he or she did not have the means and could not
11 reasonably have acquired the means to pay the fine, penalty
12 assessments, or restitution or perform community service.

13 (3) ~~((a))~~ If the court finds that a respondent has willfully
14 violated the terms of an order pursuant to subsections (1) and (2) of
15 this section, it may impose a penalty of up to thirty days'
16 confinement. Penalties for multiple violations occurring prior to the
17 hearing shall not be aggregated to exceed thirty days' confinement.
18 Regardless of the number of times a respondent is brought to court for
19 violations of the terms of a single disposition order, the combined
20 total number of days spent by the respondent in detention shall never
21 exceed the maximum term to which an adult could be sentenced for the
22 underlying offense.

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

28 (4) If a respondent has been ordered to pay a fine or monetary
29 penalty and due to a change of circumstance cannot reasonably comply
30 with the order, the court, upon motion of the respondent, may order
31 that the unpaid fine or monetary penalty be converted to community
32 service. The number of hours of community service in lieu of a
33 monetary penalty or fine shall be converted at the rate of the
34 prevailing state minimum wage per hour. The monetary penalties or
35 fines collected shall be deposited in the county general fund. A
36 failure to comply with an order under this subsection shall be deemed
37 a failure to comply with an order of community supervision and may be
38 proceeded against as provided in this section.

1 (5) When a respondent has willfully violated the terms of a
2 probation bond, the court may modify, revoke, or retain the probation
3 bond as provided in RCW 13.40.054.

4 **Sec. 32.** RCW 13.40.210 and 1994 sp.s. c 77 s 527 are each amended
5 to read as follows:

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

25 (2) The secretary shall monitor the average daily population of
26 the state's juvenile residential facilities. When the secretary
27 concludes that in-residence population of residential facilities
28 exceeds one hundred five percent of the rated bed capacity specified in
29 statute, or in absence of such specification, as specified by the
30 department in rule, the secretary may recommend reductions to the
31 governor. On certification by the governor that the recommended
32 reductions are necessary, the secretary has authority to
33 administratively release a sufficient number of offenders to reduce in-
34 residence population to one hundred percent of rated bed capacity. The
35 secretary shall release those offenders who have served the greatest
36 proportion of their sentence. However, the secretary may deny release
37 in a particular case at the request of an offender, or if the secretary
38 finds that there is no responsible custodian, as determined by the

1 department, to whom to release the offender, or if the release of the
2 offender would pose a clear danger to society. The department shall
3 notify the committing court of the release at the time of release if
4 any such early releases have occurred as a result of excessive in-
5 residence population. In no event shall an offender adjudicated of a
6 violent offense be granted release under the provisions of this
7 subsection.

8 (3)(a) Following the juvenile's release under subsection (1) of
9 this section, the secretary may require the juvenile to comply with a
10 program of parole to be administered by the department in his or her
11 community which shall last no longer than eighteen months, except that
12 in the case of a juvenile sentenced for rape in the first or second
13 degree, rape of a child in the first or second degree, child
14 molestation in the first degree, or indecent liberties with forcible
15 compulsion, the period of parole shall be twenty-four months and, in
16 the discretion of the secretary, may be up to thirty-six months when
17 the secretary finds that an additional period of parole is necessary
18 and appropriate in the interests of public safety or to meet the
19 ongoing needs of the juvenile. A parole program is mandatory for
20 offenders released under subsection (2) of this section. The decision
21 to place an offender on parole shall be based on an assessment by the
22 department of the offender's risk for reoffending upon release. The
23 department shall prioritize available parole resources to provide
24 supervision and services to offenders at moderate to high risk for
25 reoffending.

26 (b) The secretary shall, for the period of parole, facilitate the
27 juvenile's reintegration into his or her community and to further this
28 goal shall require the juvenile to refrain from possessing a firearm or
29 using a deadly weapon and refrain from committing new offenses and may
30 require the juvenile to: ~~((a))~~ (i) Undergo available medical ~~((or)),~~
31 psychiatric ~~((treatment)),~~ drug and alcohol, sex offender, mental
32 health, and other offense-related treatment services; ~~((b))~~ (ii)
33 report as directed to a parole officer and/or designee; ~~((c))~~ (iii)
34 pursue a course of study ~~((or)),~~ vocational training, or employment;
35 ~~((and d))~~ (iv) notify the parole officer of the current address where
36 he or she resides; (v) be present at a particular address during
37 specified hours; (vi) remain within prescribed geographical boundaries
38 ~~((and notify the department of any change in his or her address));~~
39 (vii) submit to electronic monitoring; (viii) refrain from using

1 illegal drugs and alcohol, and submit to random urinalysis when
2 requested by the assigned parole officer; (ix) refrain from contact
3 with specific individuals or a specified class of individuals; (x) meet
4 other conditions determined by the parole officer to further enhance
5 the juvenile's reintegration into the community; (xi) pay any court-
6 ordered fines or restitution; and (xii) perform community service.
7 Community service for the purpose of this section means compulsory
8 service, without compensation, performed for the benefit of the
9 community by the offender. Community service may be performed through
10 public or private organizations or through work crews.

11 (c) The secretary may further require up to twenty-five percent of
12 the highest risk juvenile offenders who are placed on parole to
13 participate in an intensive supervision program. Offenders
14 participating in an intensive supervision program shall be required to
15 comply with all terms and conditions listed in (b) of this subsection
16 and shall also be required to comply with the following additional
17 terms and conditions: (i) Obey all laws and refrain from any conduct
18 that threatens public safety; (ii) report at least once a week to an
19 assigned community case manager; and (iii) meet all other requirements
20 imposed by the community case manager related to participating in the
21 intensive supervision program. As a part of the intensive supervision
22 program, the secretary may require day reporting.

23 (d) After termination of the parole period, the juvenile shall be
24 discharged from the department's supervision.

25 (4) (a) The department may also modify parole for violation
26 thereof. If, after affording a juvenile all of the due process rights
27 to which he or she would be entitled if the juvenile were an adult, the
28 secretary finds that a juvenile has violated a condition of his or her
29 parole, the secretary shall order one of the following which is
30 reasonably likely to effectuate the purpose of the parole and to
31 protect the public: (i) Continued supervision under the same
32 conditions previously imposed; (ii) intensified supervision with
33 increased reporting requirements; (iii) additional conditions of
34 supervision authorized by this chapter; (iv) except as provided in
35 (a) (v) of this subsection, imposition of a period of confinement not to
36 exceed thirty days in a facility operated by or pursuant to a contract
37 with the state of Washington or any city or county for a portion of
38 each day or for a certain number of days each week with the balance of
39 the days or weeks spent under supervision; and (v) the secretary may

1 order any of the conditions or may return the offender to confinement
2 (~~(in an institution)~~) for the remainder of the sentence range if the
3 offense for which the offender was sentenced is rape in the first or
4 second degree, rape of a child in the first or second degree, child
5 molestation in the first degree, indecent liberties with forcible
6 compulsion, or a sex offense that is also a serious violent offense as
7 defined by RCW 9.94A.030.

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

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

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

21 NEW SECTION. **Sec. 33.** The legislature finds the present system
22 of transitioning youths from residential status to parole status to
23 discharge is insufficient to provide adequate rehabilitation and public
24 safety in many instances, particularly in cases of offenders at highest
25 risk of reoffending. The legislature further finds that an intensive
26 supervision program based on the following principles holds much
27 promise for positively impacting recidivism rates for juvenile
28 offenders: (1) Progressive increase in responsibility and freedom in
29 the community; (2) facilitation of youths' interaction and involvement
30 with their communities; (3) involvement of both the youth and targeted
31 community support systems such as family, peers, schools, and
32 employers, on the qualities needed for constructive interaction and
33 successful adjustment with the community; (4) development of new
34 resources, supports, and opportunities where necessary; and (5) ongoing
35 monitoring and testing of youth on their ability to abide by community
36 rules and standards.

37 The legislature intends for the department to create an intensive
38 supervision program based on the principles stated in this section that

1 will be available to the highest risk juvenile offenders placed on
2 parole.

3 NEW SECTION. **Sec. 34.** A new section is added to chapter 13.40
4 RCW to read as follows:

5 (1) The department shall, no later than January 1, 1999, implement
6 an intensive supervision program as a part of its parole services that
7 includes, at a minimum, the following program elements:

8 (a) A process of case management involving coordinated and
9 comprehensive planning, information exchange, continuity and
10 consistency, service provision and referral, and monitoring. The
11 components of the case management system shall include assessment,
12 classification, and selection criteria; individual case planning that
13 incorporates a family and community perspective; a mixture of intensive
14 surveillance and services; a balance of incentives and graduated
15 consequences coupled with the imposition of realistic, enforceable
16 conditions; and service brokerage with community resources and linkage
17 with social networks;

18 (b) Administration of transition services that transcend
19 traditional agency boundaries and professional interests and include
20 courts, institutions, aftercare, education, social and mental health
21 services, substance abuse treatment, and employment and vocational
22 training; and

23 (c) A plan for information management and program evaluation that
24 maintains close oversight over implementation and quality control, and
25 determines the effectiveness of both the processes and outcomes of the
26 program.

27 (2) The department shall report annually to the legislature,
28 beginning December 1, 1999, on the department's progress in meeting the
29 intensive supervision program evaluation goals required under
30 subsection (1)(c) of this section.

31 **Sec. 35.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
32 read as follows:

33 (1) Dispositions reviewed pursuant to RCW 13.40.160 (~~(, as now or~~
34 ~~hereafter amended,)~~) shall be reviewed in the appropriate division of
35 the court of appeals.

36 An appeal under this section shall be heard solely upon the record
37 that was before the disposition court. No written briefs may be

1 required, and the appeal shall be heard within thirty days following
2 the date of sentencing and a decision rendered within fifteen days
3 following the argument. The supreme court shall promulgate any
4 necessary rules to effectuate the purposes of this section.

5 (2) To uphold a disposition outside the standard range, (~~or which~~
6 ~~imposes confinement for a minor or first offender,~~) the court of
7 appeals must find (a) that the reasons supplied by the disposition
8 judge are supported by the record which was before the judge and that
9 those reasons clearly and convincingly support the conclusion that a
10 disposition within the range (~~, or nonconfinement for a minor or first~~
11 ~~offender,~~) would constitute a manifest injustice, and (b) that the
12 sentence imposed was neither clearly excessive nor clearly too lenient.

13 (3) If the court does not find subsection (2) (a) of this section
14 it shall remand the case for disposition within the standard range (~~or~~
15 ~~for community supervision without confinement as would otherwise be~~
16 ~~appropriate pursuant to this chapter).~~

17 (4) If the court finds subsection (2) (a) but not subsection (2) (b)
18 of this section it shall remand the case with instructions for further
19 proceedings consistent with the provisions of this chapter.

20 (5) (~~Pending appeal, a respondent may not be committed or~~
21 ~~detained for a period of time in excess of the standard range for the~~
22 ~~offense(s) committed or sixty days, whichever is longer.~~) The
23 disposition court may impose conditions on release pending appeal as
24 provided in RCW 13.40.040(4) and 13.40.050(6). (~~Upon the expiration~~
25 ~~of the period of commitment or detention specified in this subsection,~~
26 ~~the court may also impose such conditions on the respondent's release~~
27 ~~pending disposition of the appeal.~~)

28 (6) Appeal of a disposition under this section does not affect the
29 finality or appeal of the underlying adjudication of guilt.

30 **Sec. 36.** RCW 13.40.250 and 1980 c 128 s 16 are each amended to
31 read as follows:

32 A traffic or civil infraction case involving a juvenile under the
33 age of sixteen may be diverted in accordance with the provisions of
34 this chapter or filed in juvenile court.

35 (1) If a notice of a traffic or civil infraction is filed in
36 juvenile court, the juvenile named in the notice shall be afforded the
37 same due process afforded to adult defendants in traffic infraction
38 cases.

1 (2) A monetary penalty imposed upon a juvenile under the age of
2 sixteen who is found to have committed a traffic or civil infraction
3 may not exceed one hundred dollars. At the juvenile's request, the
4 court may order performance of a number of hours of community service
5 in lieu of a monetary penalty, at the rate of the prevailing state
6 minimum wage per hour.

7 (3) A diversion agreement entered into by a juvenile referred
8 pursuant to this section shall be limited to thirty hours of community
9 service, or educational or informational sessions.

10 (4) If a case involving the commission of a traffic or civil
11 infraction or offense by a juvenile under the age of sixteen has been
12 referred to a diversion unit, an abstract of the action taken by the
13 diversion unit may be forwarded to the department of licensing in the
14 manner provided for in RCW 46.20.270(2).

15 **Sec. 37.** RCW 13.40.265 and 1994 sp.s. c 7 s 435 are each amended
16 to read as follows:

17 (1)(a) If a juvenile thirteen years of age or older is found by
18 juvenile court to have committed an offense while armed with a firearm
19 or an offense that is a violation of RCW 9.41.040(1) ~~((+e+))~~ (b)(iii) or
20 chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the
21 department of licensing within twenty-four hours after entry of the
22 judgment.

23 (b) Except as otherwise provided in (c) of this subsection, upon
24 petition of a juvenile who has been found by the court to have
25 committed an offense that is a violation of chapter 66.44, 69.41,
26 69.50, or 69.52 RCW, the court may at any time the court deems
27 appropriate notify the department of licensing that the juvenile's
28 driving privileges should be reinstated.

29 (c) If the offense is the juvenile's first violation of chapter
30 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the
31 court for reinstatement of the juvenile's privilege to drive revoked
32 pursuant to RCW 46.20.265 until ninety days after the date the juvenile
33 turns sixteen or ninety days after the judgment was entered, whichever
34 is later. If the offense is the juvenile's second or subsequent
35 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile
36 may not petition the court for reinstatement of the juvenile's
37 privilege to drive revoked pursuant to RCW 46.20.265 until the date the

1 juvenile turns seventeen or one year after the date judgment was
2 entered, whichever is later.

3 (2)(a) If a juvenile enters into a diversion agreement with a
4 diversion unit pursuant to RCW 13.40.080 concerning an offense that is
5 a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion
6 unit shall notify the department of licensing within twenty-four hours
7 after the diversion agreement is signed.

8 (b) If a diversion unit has notified the department pursuant to
9 (a) of this subsection, the diversion unit shall notify the department
10 of licensing when the juvenile has completed the agreement.

11 **Sec. 38.** RCW 13.40.320 and 1995 c 40 s 1 are each amended to read
12 as follows:

13 (1) The department of social and health services shall establish
14 and operate a medium security juvenile offender basic training camp
15 program. The department shall site a juvenile offender basic training
16 camp facility in the most cost-effective facility possible and shall
17 review the possibility of using an existing abandoned and/or available
18 state, federally, or military-owned site or facility.

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

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

29 (4) The juvenile offender basic training camp shall be a
30 structured and regimented model lasting one hundred twenty days
31 emphasizing the building up of an offender's self-esteem, confidence,
32 and discipline. The juvenile offender basic training camp program
33 shall provide participants with basic education, prevocational
34 training, work-based learning, live work, work ethic skills, conflict
35 resolution counseling, substance abuse intervention, anger management
36 counseling, and structured intensive physical training. The juvenile
37 offender basic training camp program shall have a curriculum training
38 and work schedule that incorporates a balanced assignment of these or

1 other rehabilitation and training components for no less than sixteen
2 hours per day, six days a week.

3 The department shall adopt rules for the safe and effective
4 operation of the juvenile offender basic training camp program,
5 standards for an offender's successful program completion, and rules
6 for the continued after-care supervision of offenders who have
7 successfully completed the program.

8 (5) Offenders eligible for the juvenile offender basic training
9 camp option shall be those with a disposition of not more than
10 (~~seventy-eight~~) sixty-five weeks. Violent and sex offenders shall
11 not be eligible for the juvenile offender basic training camp program.

12 (6) If the court determines that the offender is eligible for the
13 juvenile offender basic training camp option, the court may recommend
14 that the department place the offender in the program. The department
15 shall evaluate the offender and may place the offender in the program.
16 The evaluation shall include, at a minimum, a risk assessment developed
17 by the department and designed to determine the offender's suitability
18 for the program. No juvenile who is assessed as a high risk offender
19 or suffers from any mental or physical problems that could endanger his
20 or her health or drastically affect his or her performance in the
21 program shall be admitted to or retained in the juvenile offender basic
22 training camp program.

23 (7) All juvenile offenders eligible for the juvenile offender
24 basic training camp sentencing option shall spend one hundred twenty
25 days of their disposition in a juvenile offender basic training camp.
26 If the juvenile offender's activities while in the juvenile offender
27 basic training camp are so disruptive to the juvenile offender basic
28 training camp program, as determined by the secretary according to
29 rules adopted by the department, as to result in the removal of the
30 juvenile offender from the juvenile offender basic training camp
31 program, or if the offender cannot complete the juvenile offender basic
32 training camp program due to medical problems, the secretary shall
33 require that the offender be committed to a juvenile institution to
34 serve the entire remainder of his or her disposition, less the amount
35 of time already served in the juvenile offender basic training camp
36 program.

37 (8) All offenders who successfully graduate from the one hundred
38 twenty day juvenile offender basic training camp program shall spend
39 the remainder of their disposition on parole in a division of juvenile

1 rehabilitation intensive aftercare program in the local community. The
2 program shall provide for the needs of the offender based on his or her
3 progress in the aftercare program as indicated by ongoing assessment of
4 those needs and progress. The intensive aftercare program shall
5 monitor postprogram juvenile offenders and assist them to successfully
6 reintegrate into the community. In addition, the program shall develop
7 a process for closely monitoring and assessing public safety risks.
8 The intensive aftercare program shall be designed and funded by the
9 department of social and health services.

10 (9) The department shall also develop and maintain a data base to
11 measure recidivism rates specific to this incarceration program. The
12 data base shall maintain data on all juvenile offenders who complete
13 the juvenile offender basic training camp program for a period of two
14 years after they have completed the program. The data base shall also
15 maintain data on the criminal activity, educational progress, and
16 employment activities of all juvenile offenders who participated in the
17 program. (~~The department shall produce an outcome evaluation report
18 on the progress of the juvenile offender basic training camp program to
19 the appropriate committees of the legislature no later than December
20 12, 1996.~~)

21 **Sec. 39.** RCW 13.50.010 and 1996 c 232 s 6 are each amended to
22 read as follows:

23 (1) For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

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

30 (6) A juvenile, or his or her parents, or any person who has
31 reasonable cause to believe information concerning that person is
32 included in the records of a juvenile justice or care agency may make
33 a motion to the court challenging the accuracy of any information
34 concerning the moving party in the record or challenging the continued
35 possession of the record by the agency. If the court grants the
36 motion, it shall order the record or information to be corrected or
37 destroyed.

38 (7) The person making a motion under subsection (5) or (6) of this
39 section shall give reasonable notice of the motion to all parties to

1 the original action and to any agency whose records will be affected by
2 the motion.

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

20 (9) Juvenile detention facilities shall release records to the
21 sentencing guidelines commission under RCW (~~13.40.025 and~~) 9.94A.040
22 upon request. The commission shall not disclose the names of any
23 juveniles or parents mentioned in the records without the named
24 individual's written permission.

25 **Sec. 40.** RCW 13.50.050 and 1992 c 188 s 7 are each amended to
26 read as follows:

27 (1) This section governs records relating to the commission of
28 juvenile offenses, including records relating to diversions.

29 (2) The official juvenile court file of any alleged or proven
30 juvenile offender shall be open to public inspection, unless sealed
31 pursuant to subsection (11) of this section.

32 (3) All records other than the official juvenile court file are
33 confidential and may be released only as provided in this section, RCW
34 13.50.010, 13.40.215, and 4.24.550.

35 (4) Except as otherwise provided in this section and RCW
36 13.50.010, records retained or produced by any juvenile justice or care
37 agency may be released to other participants in the juvenile justice or
38 care system only when an investigation or case involving the juvenile

1 in question is being pursued by the other participant or when that
2 other participant is assigned the responsibility for supervising the
3 juvenile.

4 (5) Except as provided in RCW 4.24.550, information not in an
5 official juvenile court file concerning a juvenile or a juvenile's
6 family may be released to the public only when that information could
7 not reasonably be expected to identify the juvenile or the juvenile's
8 family.

9 (6) Notwithstanding any other provision of this chapter, the
10 release, to the juvenile or his or her attorney, of law enforcement and
11 prosecuting attorneys' records pertaining to investigation, diversion,
12 and prosecution of juvenile offenses shall be governed by the rules of
13 discovery and other rules of law applicable in adult criminal
14 investigations and prosecutions.

15 (7) The juvenile court and the prosecutor may set up and maintain
16 a central record-keeping system which may receive information on all
17 alleged juvenile offenders against whom a complaint has been filed
18 pursuant to RCW 13.40.070 whether or not their cases are currently
19 pending before the court. The central record-keeping system may be
20 computerized. If a complaint has been referred to a diversion unit,
21 the diversion unit shall promptly report to the juvenile court or the
22 prosecuting attorney when the juvenile has agreed to diversion. An
23 offense shall not be reported as criminal history in any central
24 record-keeping system without notification by the diversion unit of the
25 date on which the offender agreed to diversion.

26 (8) Upon request of the victim of a crime or the victim's
27 immediate family, the identity of an alleged or proven juvenile
28 offender alleged or found to have committed a crime against the victim
29 and the identity of the alleged or proven juvenile offender's parent,
30 guardian, or custodian and the circumstance of the alleged or proven
31 crime shall be released to the victim of the crime or the victim's
32 immediate family.

33 (9) Subject to the rules of discovery applicable in adult criminal
34 prosecutions, the juvenile offense records of an adult criminal
35 defendant or witness in an adult criminal proceeding shall be released
36 upon request to prosecution and defense counsel after a charge has
37 actually been filed. The juvenile offense records of any adult
38 convicted of a crime and placed under the supervision of the adult

1 corrections system shall be released upon request to the adult
2 corrections system.

3 (10) In any case in which an information has been filed pursuant
4 to RCW 13.40.100 or a complaint has been filed with the prosecutor and
5 referred for diversion pursuant to RCW 13.40.070, the person the
6 subject of the information or complaint may file a motion with the
7 court to have the court vacate its order and findings, if any, and,
8 subject to subsection ~~((24))~~ (22) of this section, order the sealing
9 of the official juvenile court file, the social file, and records of
10 the court and of any other agency in the case.

11 (11) The court shall grant the motion to seal records made
12 pursuant to subsection (10) of this section if it finds that:

13 (a) ~~((Two years have elapsed from the later of: (i) Final
14 discharge of the person from the supervision of any agency charged with
15 supervising juvenile offenders; or (ii) from the entry of a court order
16 relating to the commission of a juvenile offense or a criminal
17 offense))~~ For class B offenses other than sex offenses, since the last
18 date of release from confinement, including full-time residential
19 treatment, if any, or entry of disposition, the person has spent ten
20 consecutive years in the community without committing any offense or
21 crime that subsequently results in conviction. For class C offenses
22 other than sex offenses, since the last date of release from
23 confinement, including full-time residential treatment, if any, or
24 entry of disposition, the person has spent five consecutive years in
25 the community without committing any offense or crime that subsequently
26 results in conviction;

27 (b) No proceeding is pending against the moving party seeking the
28 conviction of a juvenile offense or a criminal offense; ~~((and))~~

29 (c) No proceeding is pending seeking the formation of a diversion
30 agreement with that person;

31 (d) The person has not been convicted of a class A or sex offense;
32 and

33 (e) Full restitution has been paid.

34 (12) The person making a motion pursuant to subsection (10) of
35 this section shall give reasonable notice of the motion to the
36 prosecution and to any person or agency whose files are sought to be
37 sealed.

38 (13) If the court grants the motion to seal made pursuant to
39 subsection (10) of this section, it shall, subject to subsection

1 (~~(24)~~) (22) of this section, order sealed the official juvenile court
2 file, the social file, and other records relating to the case as are
3 named in the order. Thereafter, the proceedings in the case shall be
4 treated as if they never occurred, and the subject of the records may
5 reply accordingly to any inquiry about the events, records of which are
6 sealed. Any agency shall reply to any inquiry concerning confidential
7 or sealed records that records are confidential, and no information can
8 be given about the existence or nonexistence of records concerning an
9 individual.

10 (14) Inspection of the files and records included in the order to
11 seal may thereafter be permitted only by order of the court upon motion
12 made by the person who is the subject of the information or complaint,
13 except as otherwise provided in RCW 13.50.010(8) and subsection
14 (~~(24)~~) (22) of this section.

15 (15) Any adjudication of a juvenile offense or a crime subsequent
16 to sealing has the effect of nullifying the sealing order. Any
17 (~~conviction for any~~) charging of an adult felony subsequent to the
18 sealing has the effect of nullifying the sealing order for the purposes
19 of chapter 9.94A RCW (~~for any juvenile adjudication of guilt for a~~
20 ~~class A offense or a sex offense as defined in RCW 9.94A.030~~).

21 (~~(16) (In any case in which an information has been filed pursuant~~
22 ~~to RCW 13.40.100 or a complaint has been filed with the prosecutor and~~
23 ~~referred for diversion pursuant to RCW 13.40.070, the person who is the~~
24 ~~subject of the information or complaint may file a motion with the~~
25 ~~court to have the court vacate its order and findings, if any, and,~~
26 ~~subject to subsection (24) of this section, order the destruction of~~
27 ~~the official juvenile court file, the social file, and records of the~~
28 ~~court and of any other agency in the case.~~

29 ~~(17) The court may grant the motion to destroy records made~~
30 ~~pursuant to subsection (16) of this section if it finds:~~

31 ~~(a) The person making the motion is at least twenty-three years of~~
32 ~~age;~~

33 ~~(b) The person has not subsequently been convicted of a felony;~~

34 ~~(c) No proceeding is pending against that person seeking the~~
35 ~~conviction of a criminal offense; and~~

36 ~~(d) The person has never been found guilty of a serious offense.~~

37 (~~18~~) A person eighteen years of age or older whose criminal
38 history consists of only one referral for diversion may request that
39 the court order the records in that case destroyed. The request shall

1 be granted, subject to subsection (~~((24))~~) (22) of this section, if the
2 court finds that two years have elapsed since completion of the
3 diversion agreement.

4 (~~((19))~~) (17) If the court grants the motion to destroy records
5 made pursuant to subsection (16) (~~(or (18))~~) of this section, it shall,
6 subject to subsection (~~((24))~~) (22) of this section, order the official
7 juvenile court file, the social file, and any other records named in
8 the order to be destroyed.

9 (~~((20))~~) (18) The person making the motion pursuant to subsection
10 (16) (~~(or (18))~~) of this section shall give reasonable notice of the
11 motion to the prosecuting attorney and to any agency whose records are
12 sought to be destroyed.

13 (~~((21))~~) (19) Any juvenile to whom the provisions of this section
14 may apply shall be given written notice of his or her rights under this
15 section at the time of his or her disposition hearing or during the
16 diversion process.

17 (~~((22))~~) (20) Nothing in this section may be construed to prevent
18 a crime victim or a member of the victim's family from divulging the
19 identity of the alleged or proven juvenile offender or his or her
20 family when necessary in a civil proceeding.

21 (~~((23))~~) (21) Any juvenile justice or care agency may, subject to
22 the limitations in subsection (~~((24))~~) (22) of this section and
23 (~~(subparagraphs)~~) (a) and (b) of this subsection, develop procedures
24 for the routine destruction of records relating to juvenile offenses
25 and diversions.

26 (a) Records may be routinely destroyed only when the person the
27 subject of the information or complaint has attained twenty-three years
28 of age or older, or is eighteen years of age or older and his or her
29 criminal history consists entirely of one diversion agreement and two
30 years have passed since completion of the agreement.

31 (b) The court may not routinely destroy the official juvenile
32 court file or recordings or transcripts of any proceedings.

33 (~~((24))~~) (22) No identifying information held by the Washington
34 state patrol in accordance with chapter 43.43 RCW is subject to
35 destruction or sealing under this section. For the purposes of this
36 subsection, identifying information includes photographs, fingerprints,
37 palmprints, soleprints, toeprints and any other data that identifies a
38 person by physical characteristics, name, birthdate or address, but
39 does not include information regarding criminal activity, arrest,

1 charging, diversion, conviction or other information about a person's
2 treatment by the criminal justice system or about the person's
3 behavior.

4 ~~((25))~~ (23) Information identifying child victims under age
5 eighteen who are victims of sexual assaults by juvenile offenders is
6 confidential and not subject to release to the press or public without
7 the permission of the child victim or the child's legal guardian.
8 Identifying information includes the child victim's name, addresses,
9 location, photographs, and in cases in which the child victim is a
10 relative of the alleged perpetrator, identification of the relationship
11 between the child and the alleged perpetrator. Information identifying
12 a child victim of sexual assault may be released to law enforcement,
13 prosecutors, judges, defense attorneys, or private or governmental
14 agencies that provide services to the child victim of sexual assault.

15 **Sec. 41.** RCW 72.01.410 and 1994 c 220 s 1 are each amended to
16 read as follows:

17 (1) Whenever any child under the age of eighteen is convicted in
18 the courts of this state of a crime amounting to a felony, and is
19 committed for a term of confinement in a correctional institution
20 wherein adults are confined, the secretary of corrections, after making
21 an independent assessment and evaluation of the child and determining
22 that the needs and correctional goals for the child could better be met
23 by the programs and housing environment provided by the juvenile
24 correctional institution, with the consent of the secretary of social
25 and health services, may transfer such child to a juvenile correctional
26 institution, or to such other institution as is now, or may hereafter
27 be authorized by law to receive such child, until such time as the
28 child arrives at the age of twenty-one years, whereupon the child shall
29 be returned to the institution of original commitment. Retention
30 within a juvenile detention facility or return to an adult correctional
31 facility shall regularly be reviewed by the secretary of corrections
32 and the secretary of social and health services with a determination
33 made based on the level of maturity and sophistication of the
34 individual, the behavior and progress while within the juvenile
35 detention facility, security needs, and the program/treatment
36 alternatives which would best prepare the individual for a successful
37 return to the community. Notice of such transfers shall be given to

1 the clerk of the committing court and the parents, guardian, or next of
2 kin of such child, if known.

3 (2)(a) Except as provided in (b) of this subsection, an offender
4 under the age of eighteen who is convicted in adult criminal court and
5 who is committed to a term of confinement at the department of
6 corrections must be placed in a housing unit, or a portion of a housing
7 unit, that is separated from offenders eighteen years of age or older,
8 until the offender reaches the age of eighteen.

9 (b) An offender under the age of eighteen may be housed in an
10 intensive management unit or administrative segregation unit containing
11 offenders eighteen years of age or older if it is necessary for the
12 safety or security of the offender or staff. In these cases, the
13 offender shall be kept physically separate from other offenders at all
14 times.

15 NEW SECTION. Sec. 42. A new section is added to chapter 72.01
16 RCW to read as follows:

17 An offender under the age of eighteen who is convicted in adult
18 criminal court of a crime and who is committed for a term of
19 confinement in a jail as defined in RCW 70.48.020, must be housed in a
20 jail cell that does not contain adult offenders, until the offender
21 reaches the age of eighteen.

22 **Sec. 43.** RCW 72.09.460 and 1995 1st sp.s. c 19 s 5 are each
23 amended to read as follows:

24 (1) The legislature intends that all inmates be required to
25 participate in department-approved education programs, work programs,
26 or both, unless exempted under subsection (~~(3)~~) (4) of this section.
27 Eligible inmates who refuse to participate in available education or
28 work programs available at no charge to the inmates shall lose
29 privileges according to the system established under RCW 72.09.130.
30 Eligible inmates who are required to contribute financially to an
31 education or work program and refuse to contribute shall be placed in
32 another work program. Refusal to contribute shall not result in a loss
33 of privileges. The legislature recognizes more inmates may agree to
34 participate in education and work programs than are available. The
35 department must make every effort to achieve maximum public benefit by
36 placing inmates in available and appropriate education and work
37 programs.

1 (2) The department shall provide a program of education to all
2 offenders who are under the age of eighteen and who have not met high
3 school graduation or general equivalency diploma requirements. The
4 program of education established by the department for offenders under
5 the age of eighteen must provide each offender a choice of curriculum
6 that will assist the inmate in achieving a high school diploma or
7 general equivalency diploma.

8 (3) The department shall, to the extent possible and considering
9 all available funds, prioritize its resources to meet the following
10 goals for inmates in the order listed:

11 (a) Achievement of basic academic skills through obtaining a high
12 school diploma or its equivalent and achievement of vocational skills
13 necessary for purposes of work programs and for an inmate to qualify
14 for work upon release;

15 (b) Additional work and education programs based on assessments
16 and placements under subsection ~~((4))~~ (5) of this section; and

17 (c) Other work and education programs as appropriate.

18 ~~((3))~~ (4) The department shall establish, by rule, objective
19 medical standards to determine when an inmate is physically or mentally
20 unable to participate in available education or work programs. When
21 the department determines an inmate is permanently unable to
22 participate in any available education or work program due to a medical
23 condition, the inmate is exempt from the requirement under subsection
24 (1) of this section. When the department determines an inmate is
25 temporarily unable to participate in an education or work program due
26 to a medical condition, the inmate is exempt from the requirement of
27 subsection (1) of this section for the period of time he or she is
28 temporarily disabled. The department shall periodically review the
29 medical condition of all temporarily disabled inmates to ensure the
30 earliest possible entry or reentry by inmates into available
31 programming.

32 ~~((4))~~ (5) The department shall establish, by rule, standards for
33 participation in department-approved education and work programs. The
34 standards shall address the following areas:

35 (a) Assessment. The department shall assess all inmates for their
36 basic academic skill levels using a professionally accepted method of
37 scoring reading, math, and language skills as grade level equivalents.
38 The department shall determine an inmate's education history, work
39 history, and vocational or work skills. The initial assessment shall

1 be conducted, whenever possible, within the first thirty days of an
2 inmate's entry into the correctional system, except that initial
3 assessments are not required for inmates who are sentenced to life
4 without the possibility of release, assigned to an intensive management
5 unit within the first thirty days after entry into the correctional
6 system, are returning to the correctional system within one year of a
7 prior release, or whose physical or mental condition renders them
8 unable to complete the assessment process. The department shall track
9 and record changes in the basic academic skill levels of all inmates
10 reflected in any testing or assessment performed as part of their
11 education programming;

12 (b) Placement. The department shall follow the policies set forth
13 in subsection (1) of this section in establishing criteria for placing
14 inmates in education and work programs. The department shall, to the
15 extent possible, place all inmates whose composite grade level score
16 for basic academic skills is below the eighth grade level in a combined
17 education and work program. The placement criteria shall include at
18 least the following factors:

19 (i) An inmate's release date and custody level, except an inmate
20 shall not be precluded from participating in an education or work
21 program solely on the basis of his or her release date;

22 (ii) An inmate's education history and basic academic skills;

23 (iii) An inmate's work history and vocational or work skills;

24 (iv) An inmate's economic circumstances, including but not limited
25 to an inmate's family support obligations; and

26 (v) Where applicable, an inmate's prior performance in department-
27 approved education or work programs;

28 (c) Performance and goals. The department shall establish, and
29 periodically review, inmate behavior standards and program goals for
30 all education and work programs. Inmates shall be notified of
31 applicable behavior standards and program goals prior to placement in
32 an education or work program and shall be removed from the education or
33 work program if they consistently fail to meet the standards or goals;

34 (d) Financial responsibility. (i) The department shall establish
35 a formula by which inmates, based on their ability to pay, shall pay
36 all or a portion of the costs or tuition of certain programs. Inmates
37 shall, based on the formula, pay a portion of the costs or tuition of
38 participation in:

1 (A) Second and subsequent vocational programs associated with an
2 inmate's work programs; and

3 (B) An associate of arts or baccalaureate degree program when
4 placement in a degree program is the result of a placement made under
5 this subsection;

6 (ii) Inmates shall pay all costs and tuition for participation in:

7 (A) Any postsecondary academic degree program which is entered
8 independently of a placement decision made under this subsection; and

9 (B) Second and subsequent vocational programs not associated with
10 an inmate's work program.

11 Enrollment in any program specified in (d)(ii) of this subsection
12 shall only be allowed by correspondence or if there is an opening in an
13 education or work program at the institution where an inmate is
14 incarcerated and no other inmate who is placed in a program under this
15 subsection will be displaced; and

16 (e) Notwithstanding any other provision in this section, an inmate
17 sentenced to life without the possibility of release:

18 (i) Shall not be required to participate in education programming;
19 and

20 (ii) May receive not more than one postsecondary academic degree
21 in a program offered by the department or its contracted providers.

22 If an inmate sentenced to life without the possibility of release
23 requires prevocational or vocational training for a work program, he or
24 she may participate in the training subject to this section.

25 (~~(5)~~) (6) The department shall coordinate education and work
26 programs among its institutions, to the greatest extent possible, to
27 facilitate continuity of programming among inmates transferred between
28 institutions. Before transferring an inmate enrolled in a program, the
29 department shall consider the effect the transfer will have on the
30 inmate's ability to continue or complete a program. This subsection
31 shall not be used to delay or prohibit a transfer necessary for
32 legitimate safety or security concerns.

33 (~~(6)~~) (7) Before construction of a new correctional institution
34 or expansion of an existing correctional institution, the department
35 shall adopt a plan demonstrating how cable, closed-circuit, and
36 satellite television will be used for education and training purposes
37 in the institution. The plan shall specify how the use of television
38 in the education and training programs will improve inmates'

1 preparedness for available work programs and job opportunities for
2 which inmates may qualify upon release.

3 ~~((7))~~ (8) The department shall adopt a plan to reduce the per-
4 pupil cost of instruction by, among other methods, increasing the use
5 of volunteer instructors and implementing technological efficiencies.
6 The plan shall be adopted by December 1996 and shall be transmitted to
7 the legislature upon adoption. The department shall, in adoption of
8 the plan, consider distance learning, satellite instruction, video tape
9 usage, computer-aided instruction, and flexible scheduling of offender
10 instruction.

11 ~~((8))~~ (9) Following completion of the review required by section
12 27(3), chapter 19, Laws of 1995 1st sp. sess. the department shall take
13 all necessary steps to assure the vocation and education programs are
14 relevant to work programs and skills necessary to enhance the
15 employability of inmates upon release.

16 **Sec. 44.** RCW 9A.36.045 and 1995 c 129 s 8 are each amended to
17 read as follows:

18 (1) A person is guilty of ~~((reckless endangerment in the first
19 degree))~~ drive-by shooting when he or she recklessly discharges a
20 firearm as defined in RCW 9.41.010 in a manner which creates a
21 substantial risk of death or serious physical injury to another person
22 and the discharge is either from a motor vehicle or from the immediate
23 area of a motor vehicle that was used to transport the shooter or the
24 firearm, or both, to the scene of the discharge.

25 (2) A person who unlawfully discharges a firearm from a moving
26 motor vehicle may be inferred to have engaged in reckless conduct,
27 unless the discharge is shown by evidence satisfactory to the trier of
28 fact to have been made without such recklessness.

29 (3) ~~((Reckless endangerment in the first degree))~~ Drive-by
30 shooting is a class B felony.

31 **Sec. 45.** RCW 9A.36.050 and 1989 c 271 s 110 are each amended to
32 read as follows:

33 (1) A person is guilty of reckless endangerment ~~((in the second
34 degree))~~ when he or she recklessly engages in conduct not amounting to
35 ~~((reckless endangerment in the first degree but which))~~ drive-by
36 shooting but that creates a substantial risk of death or serious
37 physical injury to another person.

1 (2) Reckless endangerment (~~(in the second degree)~~) is a gross
2 misdemeanor.

3 **Sec. 46.** RCW 9.41.010 and 1996 c 295 s 1 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Firearm" means a weapon or device from which a projectile or
8 projectiles may be fired by an explosive such as gunpowder.

9 (2) "Pistol" means any firearm with a barrel less than sixteen
10 inches in length, or is designed to be held and fired by the use of a
11 single hand.

12 (3) "Rifle" means a weapon designed or redesigned, made or remade,
13 and intended to be fired from the shoulder and designed or redesigned,
14 made or remade, and intended to use the energy of the explosive in a
15 fixed metallic cartridge to fire only a single projectile through a
16 rifled bore for each single pull of the trigger.

17 (4) "Short-barreled rifle" means a rifle having one or more
18 barrels less than sixteen inches in length and any weapon made from a
19 rifle by any means of modification if such modified weapon has an
20 overall length of less than twenty-six inches.

21 (5) "Shotgun" means a weapon with one or more barrels, designed or
22 redesigned, made or remade, and intended to be fired from the shoulder
23 and designed or redesigned, made or remade, and intended to use the
24 energy of the explosive in a fixed shotgun shell to fire through a
25 smooth bore either a number of ball shot or a single projectile for
26 each single pull of the trigger.

27 (6) "Short-barreled shotgun" means a shotgun having one or more
28 barrels less than eighteen inches in length and any weapon made from a
29 shotgun by any means of modification if such modified weapon has an
30 overall length of less than twenty-six inches.

31 (7) "Machine gun" means any firearm known as a machine gun,
32 mechanical rifle, submachine gun, or any other mechanism or instrument
33 not requiring that the trigger be pressed for each shot and having a
34 reservoir clip, disc, drum, belt, or other separable mechanical device
35 for storing, carrying, or supplying ammunition which can be loaded into
36 the firearm, mechanism, or instrument, and fired therefrom at the rate
37 of five or more shots per second.

1 (8) "Antique firearm" means a firearm or replica of a firearm not
2 designed or redesigned for using rim fire or conventional center fire
3 ignition with fixed ammunition and manufactured in or before 1898,
4 including any matchlock, flintlock, percussion cap, or similar type of
5 ignition system and also any firearm using fixed ammunition
6 manufactured in or before 1898, for which ammunition is no longer
7 manufactured in the United States and is not readily available in the
8 ordinary channels of commercial trade.

9 (9) "Loaded" means:

10 (a) There is a cartridge in the chamber of the firearm;

11 (b) Cartridges are in a clip that is locked in place in the
12 firearm;

13 (c) There is a cartridge in the cylinder of the firearm, if the
14 firearm is a revolver;

15 (d) There is a cartridge in the tube or magazine that is inserted
16 in the action; or

17 (e) There is a ball in the barrel and the firearm is capped or
18 primed if the firearm is a muzzle loader.

19 (10) "Dealer" means a person engaged in the business of selling
20 firearms at wholesale or retail who has, or is required to have, a
21 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
22 does not have, and is not required to have, a federal firearms license
23 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only
24 occasional sales, exchanges, or purchases of firearms for the
25 enhancement of a personal collection or for a hobby, or sells all or
26 part of his or her personal collection of firearms.

27 (11) "Crime of violence" means:

28 (a) Any of the following felonies, as now existing or hereafter
29 amended: Any felony defined under any law as a class A felony or an
30 attempt to commit a class A felony, criminal solicitation of or
31 criminal conspiracy to commit a class A felony, manslaughter in the
32 first degree, manslaughter in the second degree, indecent liberties if
33 committed by forcible compulsion, kidnapping in the second degree,
34 arson in the second degree, assault in the second degree, assault of a
35 child in the second degree, extortion in the first degree, burglary in
36 the second degree, residential burglary, and robbery in the second
37 degree;

1 (b) Any conviction for a felony offense in effect at any time
2 prior to June 6, 1996, which is comparable to a felony classified as a
3 crime of violence in (a) of this subsection; and

4 (c) Any federal or out-of-state conviction for an offense
5 comparable to a felony classified as a crime of violence under (a) or
6 (b) of this subsection.

7 (12) "Serious offense" means any of the following felonies or a
8 felony attempt to commit any of the following felonies, as now existing
9 or hereafter amended:

10 (a) Any crime of violence;

11 (b) Any felony violation of the uniform controlled substances act,
12 chapter 69.50 RCW, that is classified as a class B felony or that has
13 a maximum term of imprisonment of at least ten years;

14 (c) Child molestation in the second degree;

15 (d) Incest when committed against a child under age fourteen;

16 (e) Indecent liberties;

17 (f) Leading organized crime;

18 (g) Promoting prostitution in the first degree;

19 (h) Rape in the third degree;

20 (i) (~~Reckless endangerment in the first degree~~) Drive-by
21 shooting;

22 (j) Sexual exploitation;

23 (k) Vehicular assault;

24 (l) Vehicular homicide, when proximately caused by the driving of
25 any vehicle by any person while under the influence of intoxicating
26 liquor or any drug as defined by RCW 46.61.502, or by the operation of
27 any vehicle in a reckless manner;

28 (m) Any other class B felony offense with a finding of sexual
29 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

30 (n) Any other felony with a deadly weapon verdict under RCW
31 9.94A.125; or

32 (o) Any felony offense in effect at any time prior to June 6,
33 1996, that is comparable to a serious offense, or any federal or out-
34 of-state conviction for an offense that under the laws of this state
35 would be a felony classified as a serious offense.

36 (13) "Law enforcement officer" includes a general authority
37 Washington peace officer as defined in RCW 10.93.020, or a specially
38 commissioned Washington peace officer as defined in RCW 10.93.020.
39 "Law enforcement officer" also includes a limited authority Washington

1 peace officer as defined in RCW 10.93.020 if such officer is duly
2 authorized by his or her employer to carry a concealed pistol.

3 (14) "Felony" means any felony offense under the laws of this
4 state or any federal or out-of-state offense comparable to a felony
5 offense under the laws of this state.

6 (15) "Sell" refers to the actual approval of the delivery of a
7 firearm in consideration of payment or promise of payment of a certain
8 price in money.

9 (16) "Barrel length" means the distance from the bolt face of a
10 closed action down the length of the axis of the bore to the crown of
11 the muzzle, or in the case of a barrel with attachments to the end of
12 any legal device permanently attached to the end of the muzzle.

13 (17) "Family or household member" means "family" or "household
14 member" as used in RCW 10.99.020.

15 **Sec. 47.** RCW 9.41.040 and 1996 c 295 s 2 are each amended to read
16 as follows:

17 (1)(a) A person, whether an adult or juvenile, is guilty of the
18 crime of unlawful possession of a firearm in the first degree, if the
19 person owns, has in his or her possession, or has in his or her control
20 any firearm after having previously been convicted in this state or
21 elsewhere of any serious offense as defined in this chapter.

22 (b) A person, whether an adult or juvenile, is guilty of the crime
23 of unlawful possession of a firearm in the second degree, if the person
24 does not qualify under (a) of this subsection for the crime of unlawful
25 possession of a firearm in the first degree and the person owns, has in
26 his or her possession, or has in his or her control any firearm:

27 (i) After having previously been convicted in this state or
28 elsewhere of any felony not specifically listed as prohibiting firearm
29 possession under (a) of this subsection, or any of the following crimes
30 when committed by one family or household member against another,
31 committed on or after July 1, 1993: Assault in the fourth degree,
32 coercion, stalking, reckless endangerment (~~(in the second degree)~~),
33 criminal trespass in the first degree, or violation of the provisions
34 of a protection order or no-contact order restraining the person or
35 excluding the person from a residence (RCW 26.50.060, 26.50.070,
36 26.50.130, or 10.99.040);

37 (ii) After having previously been involuntarily committed for
38 mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77

1 RCW, or equivalent statutes of another jurisdiction, unless his or her
2 right to possess a firearm has been restored as provided in RCW
3 9.41.047;

4 (iii) If the person is under eighteen years of age, except as
5 provided in RCW 9.41.042; and/or

6 (iv) If the person is free on bond or personal recognizance
7 pending trial, appeal, or sentencing for a serious offense as defined
8 in RCW 9.41.010.

9 (2)(a) Unlawful possession of a firearm in the first degree is a
10 class B felony, punishable under chapter 9A.20 RCW.

11 (b) Unlawful possession of a firearm in the second degree is a
12 class C felony, punishable under chapter 9A.20 RCW.

13 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
14 as used in this chapter, a person has been "convicted", whether in an
15 adult court or adjudicated in a juvenile court, at such time as a plea
16 of guilty has been accepted, or a verdict of guilty has been filed,
17 notwithstanding the pendency of any future proceedings including but
18 not limited to sentencing or disposition, post-trial or post-
19 factfinding motions, and appeals. Conviction includes a dismissal
20 entered after a period of probation, suspension or deferral of
21 sentence, and also includes equivalent dispositions by courts in
22 jurisdictions other than Washington state. A person shall not be
23 precluded from possession of a firearm if the conviction has been the
24 subject of a pardon, annulment, certificate of rehabilitation, or other
25 equivalent procedure based on a finding of the rehabilitation of the
26 person convicted or the conviction or disposition has been the subject
27 of a pardon, annulment, or other equivalent procedure based on a
28 finding of innocence. Where no record of the court's disposition of
29 the charges can be found, there shall be a rebuttable presumption that
30 the person was not convicted of the charge.

31 (4) Notwithstanding subsection (1) of this section, a person
32 convicted of an offense prohibiting the possession of a firearm under
33 this section other than murder, manslaughter, robbery, rape, indecent
34 liberties, arson, assault, kidnapping, extortion, burglary, or
35 violations with respect to controlled substances under RCW 69.50.401(a)
36 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
37 and who received a dismissal of the charge under RCW 9.95.240, shall
38 not be precluded from possession of a firearm as a result of the
39 conviction. Notwithstanding any other provisions of this section, if

1 a person is prohibited from possession of a firearm under subsection
2 (1) of this section and has not previously been convicted of a sex
3 offense prohibiting firearm ownership under subsection (1) of this
4 section and/or any felony defined under any law as a class A felony or
5 with a maximum sentence of at least twenty years, or both, the
6 individual may petition a court of record to have his or her right to
7 possess a firearm restored:

8 (a) Under RCW 9.41.047; and/or

9 (b) (i) If the conviction was for a felony offense, after five or
10 more consecutive years in the community without being convicted or
11 currently charged with any felony, gross misdemeanor, or misdemeanor
12 crimes, if the individual has no prior felony convictions that prohibit
13 the possession of a firearm counted as part of the offender score under
14 RCW 9.94A.360; or

15 (ii) If the conviction was for a nonfelony offense, after three or
16 more consecutive years in the community without being convicted or
17 currently charged with any felony, gross misdemeanor, or misdemeanor
18 crimes, if the individual has no prior felony convictions that prohibit
19 the possession of a firearm counted as part of the offender score under
20 RCW 9.94A.360 and the individual has completed all conditions of the
21 sentence.

22 (5) In addition to any other penalty provided for by law, if a
23 person under the age of eighteen years is found by a court to have
24 possessed a firearm in a vehicle in violation of subsection (1) of this
25 section or to have committed an offense while armed with a firearm
26 during which offense a motor vehicle served an integral function, the
27 court shall notify the department of licensing within twenty-four hours
28 and the person's privilege to drive shall be revoked under RCW
29 46.20.265.

30 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
31 or interpreted as preventing an offender from being charged and
32 subsequently convicted for the separate felony crimes of theft of a
33 firearm or possession of a stolen firearm, or both, in addition to
34 being charged and subsequently convicted under this section for
35 unlawful possession of a firearm in the first or second degree.
36 Notwithstanding any other law, if the offender is convicted under this
37 section for unlawful possession of a firearm in the first or second
38 degree and for the felony crimes of theft of a firearm or possession of
39 a stolen firearm, or both, then the offender shall serve consecutive

1 sentences for each of the felony crimes of conviction listed in this
2 subsection.

3 (7) Each firearm unlawfully possessed under this section shall be
4 a separate offense.

5 **Sec. 48.** RCW 9.94A.103 and 1995 c 129 s 5 are each amended to
6 read as follows:

7 Any and all recommended sentencing agreements or plea agreements
8 and the sentences for any and all felony crimes shall be made and
9 retained as public records if the felony crime involves:

10 (1) Any violent offense as defined in this chapter;

11 (2) Any most serious offense as defined in this chapter;

12 (3) Any felony with a deadly weapon special verdict under RCW
13 9.94A.125;

14 (4) Any felony with any deadly weapon enhancements under RCW
15 9.94A.310 (3) or (4), or both; and/or

16 (5) The felony crimes of possession of a machine gun, possessing
17 a stolen firearm, (~~reckless endangerment in the first degree~~) drive-
18 by shooting, theft of a firearm, unlawful possession of a firearm in
19 the first or second degree, and/or use of a machine gun in a felony.

20 **Sec. 49.** RCW 9.94A.105 and 1995 c 129 s 6 are each amended to
21 read as follows:

22 (1) A current, newly created or reworked judgment and sentence
23 document for each felony sentencing shall record any and all
24 recommended sentencing agreements or plea agreements and the sentences
25 for any and all felony crimes kept as public records under RCW
26 9.94A.103 shall contain the clearly printed name and legal signature of
27 the sentencing judge. The judgment and sentence document as defined in
28 this section shall also provide additional space for the sentencing
29 judge's reasons for going either above or below the presumptive
30 sentence range for any and all felony crimes covered as public records
31 under RCW 9.94A.103. Both the sentencing judge and the prosecuting
32 attorney's office shall each retain or receive a completed copy of each
33 sentencing document as defined in this section for their own records.

34 (2) The sentencing guidelines commission shall be sent a completed
35 copy of the judgment and sentence document upon conviction for each
36 felony sentencing under subsection (1) of this section and shall
37 compile a yearly and cumulative judicial record of each sentencing

1 judge in regards to his or her sentencing practices for any and all
2 felony crimes involving:

3 (a) Any violent offense as defined in this chapter;

4 (b) Any most serious offense as defined in this chapter;

5 (c) Any felony with any deadly weapon special verdict under RCW
6 9.94A.125;

7 (d) Any felony with any deadly weapon enhancements under RCW
8 9.94A.310 (3) or (4), or both; and/or

9 (e) The felony crimes of possession of a machine gun, possessing
10 a stolen firearm, (~~reckless endangerment in the first degree~~)
11 drive-by shooting, theft of a firearm, unlawful possession of a firearm
12 in the first or second degree, and/or use of a machine gun in a felony.

13 (3) The sentencing guidelines commission shall compare each
14 individual judge's sentencing practices to the standard or presumptive
15 sentence range for any and all felony crimes listed in subsection (2)
16 of this section for the appropriate offense level as defined in RCW
17 9.94A.320, offender score as defined in RCW 9.94A.360, and any
18 applicable deadly weapon enhancements as defined in RCW 9.94A.310 (3)
19 or (4), or both. These comparative records shall be retained and made
20 available to the public for review in a current, newly created or
21 reworked official published document by the sentencing guidelines
22 commission.

23 (4) Any and all felony sentences which are either above or below
24 the standard or presumptive sentence range in subsection (3) of this
25 section shall also mark whether the prosecuting attorney in the case
26 also recommended a similar sentence, if any, which was either above or
27 below the presumptive sentence range and shall also indicate if the
28 sentence was in conjunction with an approved alternative sentencing
29 option including a first-time offender waiver, sex offender sentencing
30 alternative, or other prescribed sentencing option.

31 (5) If any completed judgment and sentence document as defined in
32 subsection (1) of this section is not sent to the sentencing guidelines
33 commission as required in subsection (2) of this section, the
34 sentencing guidelines commission shall have the authority and shall
35 undertake reasonable and necessary steps to assure that all past,
36 current, and future sentencing documents as defined in subsection (1)
37 of this section are received by the sentencing guidelines commission.

1 **Sec. 50.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to
 2 read as follows:

3

4 (1)

TABLE 1

Sentencing Grid

6 SERIOUSNESS

7 SCORE

OFFENDER SCORE

8

9 or

9

0 1 2 3 4 5 6 7 8 more

10

XV Life Sentence without Parole/Death Penalty

12

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

16

XVIII	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

20

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

24

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

28

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

32

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

36

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	<hr/>										
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	<hr/>										
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	<hr/>										
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	<hr/>										
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	<hr/>										
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	<hr/>										
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	<hr/>										
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	<hr/>										

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~~

1 ~~degree~~) drive-by shooting, theft of a firearm, unlawful possession of
2 a firearm in the first and second degree, and use of a machine gun in
3 a felony.

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

8 (4) The following additional times shall be added to the
9 presumptive sentence for felony crimes committed after July 23, 1995,
10 if the offender or an accomplice was armed with a deadly weapon as
11 defined in this chapter other than a firearm as defined in RCW 9.41.010
12 and the offender is being sentenced for one of the crimes listed in
13 this subsection as eligible for any deadly weapon enhancements based on
14 the classification of the completed felony crime. If the offender or
15 an accomplice was armed with a deadly weapon other than a firearm as
16 defined in RCW 9.41.010 and the offender is being sentenced for an
17 anticipatory offense under chapter 9A.28 RCW to commit one of the
18 crimes listed in this subsection as eligible for any deadly weapon
19 enhancements, the following additional times shall be added to the
20 presumptive sentence determined under subsection (2) of this section
21 based on the felony crime of conviction as classified under RCW
22 9A.28.020:

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

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

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

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

1 (e) Notwithstanding any other provision of law, any and all deadly
2 weapon enhancements under this section are mandatory, shall be served
3 in total confinement, and shall not run concurrently with any other
4 sentencing provisions.

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

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

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

27 (a) Eighteen months for offenses committed under RCW
28 69.50.401(a)(1)(i) or (ii) or 69.50.410;

29 (b) Fifteen months for offenses committed under RCW
30 69.50.401(a)(1)(iii), (iv), and (v);

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

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

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

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic from
3 Schedule I-V to someone under 18 and 3
4 years junior (RCW 69.50.406)
5 Controlled Substance Homicide (RCW 69.50.415)
6 Sexual Exploitation (RCW 9.68A.040)
7 Inciting Criminal Profiteering (RCW
8 9A.82.060(1)(b))
9 Vehicular Homicide, by being under the
10 influence of intoxicating liquor or any
11 drug (RCW 46.61.520)

12 VIII Arson 1 (RCW 9A.48.020)
13 Promoting Prostitution 1 (RCW 9A.88.070)
14 Selling for profit (controlled or
15 counterfeit) any controlled substance
16 (RCW 69.50.410)
17 Manufacture, deliver, or possess with intent
18 to deliver heroin or cocaine (RCW
19 69.50.401(a)(1)(i))
20 Manufacture, deliver, or possess with intent
21 to deliver methamphetamine (RCW
22 69.50.401(a)(1)(ii))
23 Possession of ephedrine or pseudoephedrine
24 with intent to manufacture
25 methamphetamine (RCW 69.50.440)
26 Vehicular Homicide, by the operation of any
27 vehicle in a reckless manner (RCW
28 46.61.520)

29 VII Burglary 1 (RCW 9A.52.020)
30 Vehicular Homicide, by disregard for the
31 safety of others (RCW 46.61.520)
32 Introducing Contraband 1 (RCW 9A.76.140)
33 Indecent Liberties (without forcible
34 compulsion) (RCW 9A.44.100(1)(b) and
35 (c))
36 Child Molestation 2 (RCW 9A.44.086)

1 Dealing in depictions of minor engaged in
2 sexually explicit conduct (RCW
3 9.68A.050)
4 Sending, bringing into state depictions of
5 minor engaged in sexually explicit
6 conduct (RCW 9.68A.060)
7 Involving a minor in drug dealing (RCW
8 69.50.401(f))
9 (~~Reckless Endangerment 1~~) Drive-by Shooting
10 (RCW 9A.36.045)
11 Unlawful Possession of a Firearm in the first
12 degree (RCW 9.41.040(1)(a))
13 VI Bribery (RCW 9A.68.010)
14 Manslaughter 2 (RCW 9A.32.070)
15 Rape of a Child 3 (RCW 9A.44.079)
16 Intimidating a Juror/Witness (RCW 9A.72.110,
17 9A.72.130)
18 Damaging building, etc., by explosion with no
19 threat to human being (RCW 70.74.280(2))
20 Endangering life and property by explosives
21 with no threat to human being (RCW
22 70.74.270)
23 Incest 1 (RCW 9A.64.020(1))
24 Manufacture, deliver, or possess with intent
25 to deliver narcotics from Schedule I or
26 II (except heroin or cocaine) (RCW
27 69.50.401(a)(1)(i))
28 Intimidating a Judge (RCW 9A.72.160)
29 Bail Jumping with Murder 1 (RCW
30 9A.76.170(2)(a))
31 Theft of a Firearm (RCW 9A.56.300)
32 V Persistent prison misbehavior (RCW 9.94.070)
33 Criminal Mistreatment 1 (RCW 9A.42.020)
34 Abandonment of dependent person 1 (RCW
35 9A.42.060)
36 Rape 3 (RCW 9A.44.060)
37 Sexual Misconduct with a Minor 1 (RCW
38 9A.44.093)

1 Child Molestation 3 (RCW 9A.44.089)
2 Kidnapping 2 (RCW 9A.40.030)
3 Extortion 1 (RCW 9A.56.120)
4 Incest 2 (RCW 9A.64.020(2))
5 Perjury 1 (RCW 9A.72.020)
6 Extortionate Extension of Credit (RCW
7 9A.82.020)
8 Advancing money or property for extortionate
9 extension of credit (RCW 9A.82.030)
10 Extortionate Means to Collect Extensions of
11 Credit (RCW 9A.82.040)
12 Rendering Criminal Assistance 1 (RCW
13 9A.76.070)
14 Bail Jumping with class A Felony (RCW
15 9A.76.170(2)(b))
16 Sexually Violating Human Remains (RCW
17 9A.44.105)
18 Delivery of imitation controlled substance by
19 person eighteen or over to person under
20 eighteen (RCW 69.52.030(2))
21 Possession of a Stolen Firearm (RCW
22 9A.56.310)
23 IV Residential Burglary (RCW 9A.52.025)
24 Theft of Livestock 1 (RCW 9A.56.080)
25 Robbery 2 (RCW 9A.56.210)
26 Assault 2 (RCW 9A.36.021)
27 Escape 1 (RCW 9A.76.110)
28 Arson 2 (RCW 9A.48.030)
29 Commercial Bribery (RCW 9A.68.060)
30 Bribing a Witness/Bribe Received by Witness
31 (RCW 9A.72.090, 9A.72.100)
32 Malicious Harassment (RCW 9A.36.080)
33 Threats to Bomb (RCW 9.61.160)
34 Willful Failure to Return from Furlough (RCW
35 72.66.060)
36 Hit and Run -- Injury Accident (RCW
37 46.52.020(4))
38 Hit and Run with Vessel -- Injury Accident
39 (RCW 88.12.155(3))

1 Vehicular Assault (RCW 46.61.522)
2 Manufacture, deliver, or possess with intent
3 to deliver narcotics from Schedule III,
4 IV, or V or nonnarcotics from Schedule
5 I-V (except marijuana or
6 methamphetamines) (RCW 69.50.401(a)(1)
7 (iii) through (v))
8 Influencing Outcome of Sporting Event (RCW
9 9A.82.070)
10 Use of Proceeds of Criminal Profiteering (RCW
11 9A.82.080 (1) and (2))
12 Knowingly Trafficking in Stolen Property (RCW
13 9A.82.050(2))
14 III Criminal Mistreatment 2 (RCW 9A.42.030)
15 Abandonment of dependent person 2 (RCW
16 9A.42.070)
17 Extortion 2 (RCW 9A.56.130)
18 Unlawful Imprisonment (RCW 9A.40.040)
19 Assault 3 (RCW 9A.36.031)
20 Assault of a Child 3 (RCW 9A.36.140)
21 Custodial Assault (RCW 9A.36.100)
22 Unlawful possession of firearm in the second
23 degree (RCW 9.41.040(1)(b))
24 Harassment (RCW 9A.46.020)
25 Promoting Prostitution 2 (RCW 9A.88.080)
26 Willful Failure to Return from Work Release
27 (RCW 72.65.070)
28 Burglary 2 (RCW 9A.52.030)
29 Introducing Contraband 2 (RCW 9A.76.150)
30 Communication with a Minor for Immoral
31 Purposes (RCW 9.68A.090)
32 Patronizing a Juvenile Prostitute (RCW
33 9.68A.100)
34 Escape 2 (RCW 9A.76.120)
35 Perjury 2 (RCW 9A.72.030)
36 Bail Jumping with class B or C Felony (RCW
37 9A.76.170(2)(c))
38 Intimidating a Public Servant (RCW 9A.76.180)
39 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with intent
2 to deliver marijuana (RCW
3 69.50.401(a)(1)(iii))
4 Delivery of a material in lieu of a
5 controlled substance (RCW 69.50.401(c))
6 Manufacture, distribute, or possess with
7 intent to distribute an imitation
8 controlled substance (RCW 69.52.030(1))
9 Recklessly Trafficking in Stolen Property
10 (RCW 9A.82.050(1))
11 Theft of livestock 2 (RCW 9A.56.080)
12 Securities Act violation (RCW 21.20.400)
13 II Unlawful Practice of Law (RCW 2.48.180)
14 Malicious Mischief 1 (RCW 9A.48.070)
15 Possession of Stolen Property 1 (RCW
16 9A.56.150)
17 Theft 1 (RCW 9A.56.030)
18 Trafficking in Insurance Claims (RCW
19 48.30A.015)
20 Unlicensed Practice of a Profession or
21 Business (RCW 18.130.190(7))
22 Health Care False Claims (RCW 48.80.030)
23 Possession of controlled substance that is
24 either heroin or narcotics from Schedule
25 I or II (RCW 69.50.401(d))
26 Possession of phencyclidine (PCP) (RCW
27 69.50.401(d))
28 Create, deliver, or possess a counterfeit
29 controlled substance (RCW 69.50.401(b))
30 Computer Trespass 1 (RCW 9A.52.110)
31 Escape from Community Custody (RCW 72.09.310)
32 I Theft 2 (RCW 9A.56.040)
33 Possession of Stolen Property 2 (RCW
34 9A.56.160)
35 Forgery (RCW 9A.60.020)
36 Taking Motor Vehicle Without Permission (RCW
37 9A.56.070)
38 Vehicle Prowl 1 (RCW 9A.52.095)

1 Attempting to Elude a Pursuing Police Vehicle
2 (RCW 46.61.024)
3 Malicious Mischief 2 (RCW 9A.48.080)
4 Reckless Burning 1 (RCW 9A.48.040)
5 Unlawful Issuance of Checks or Drafts (RCW
6 9A.56.060)
7 Unlawful Use of Food Stamps (RCW 9.91.140 (2)
8 and (3))
9 False Verification for Welfare (RCW
10 74.08.055)
11 Forged Prescription (RCW 69.41.020)
12 Forged Prescription for a Controlled
13 Substance (RCW 69.50.403)
14 Possess Controlled Substance that is a
15 Narcotic from Schedule III, IV, or V or
16 Non-narcotic from Schedule I-V (except
17 phencyclidine) (RCW 69.50.401(d))

18 **Sec. 52.** RCW 9A.46.060 and 1994 c 271 s 802 and 1994 c 121 s 2
19 are each reenacted and amended to read as follows:

20 As used in this chapter, "harassment" may include but is not
21 limited to any of the following crimes:

- 22 (1) Harassment (RCW 9A.46.020);
- 23 (2) Malicious harassment (RCW 9A.36.080);
- 24 (3) Telephone harassment (RCW 9.61.230);
- 25 (4) Assault in the first degree (RCW 9A.36.011);
- 26 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 27 (6) Assault in the second degree (RCW 9A.36.021);
- 28 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 29 (8) Assault in the fourth degree (RCW 9A.36.041);
- 30 (9) Reckless endangerment (~~(in the second degree)~~) (RCW
31 9A.36.050);
- 32 (10) Extortion in the first degree (RCW 9A.56.120);
- 33 (11) Extortion in the second degree (RCW 9A.56.130);
- 34 (12) Coercion (RCW 9A.36.070);
- 35 (13) Burglary in the first degree (RCW 9A.52.020);
- 36 (14) Burglary in the second degree (RCW 9A.52.030);
- 37 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 38 (16) Criminal trespass in the second degree (RCW 9A.52.080);

1 (17) Malicious mischief in the first degree (RCW 9A.48.070);
2 (18) Malicious mischief in the second degree (RCW 9A.48.080);
3 (19) Malicious mischief in the third degree (RCW 9A.48.090);
4 (20) Kidnapping in the first degree (RCW 9A.40.020);
5 (21) Kidnapping in the second degree (RCW 9A.40.030);
6 (22) Unlawful imprisonment (RCW 9A.40.040);
7 (23) Rape in the first degree (RCW 9A.44.040);
8 (24) Rape in the second degree (RCW 9A.44.050);
9 (25) Rape in the third degree (RCW 9A.44.060);
10 (26) Indecent liberties (RCW 9A.44.100);
11 (27) Rape of a child in the first degree (RCW 9A.44.073);
12 (28) Rape of a child in the second degree (RCW 9A.44.076);
13 (29) Rape of a child in the third degree (RCW 9A.44.079);
14 (30) Child molestation in the first degree (RCW 9A.44.083);
15 (31) Child molestation in the second degree (RCW 9A.44.086);
16 (32) Child molestation in the third degree (RCW 9A.44.089);
17 (33) Stalking (RCW 9A.46.110);
18 (34) Residential burglary (RCW 9A.52.025); and
19 (35) Violation of a temporary or permanent protective order issued
20 pursuant to chapter 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW.

21 **Sec. 53.** RCW 10.99.020 and 1996 c 248 s 5 are each amended to
22 read as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

25 (1) "Family or household members" means spouses, former spouses,
26 persons who have a child in common regardless of whether they have been
27 married or have lived together at any time, adult persons related by
28 blood or marriage, adult persons who are presently residing together or
29 who have resided together in the past, persons sixteen years of age or
30 older who are presently residing together or who have resided together
31 in the past and who have or have had a dating relationship, persons
32 sixteen years of age or older with whom a person sixteen years of age
33 or older has or has had a dating relationship, and persons who have a
34 biological or legal parent-child relationship, including stepparents
35 and stepchildren and grandparents and grandchildren.

36 (2) "Dating relationship" has the same meaning as in RCW
37 26.50.010.

1 (3) "Domestic violence" includes but is not limited to any of the
2 following crimes when committed by one family or household member
3 against another:

- 4 (a) Assault in the first degree (RCW 9A.36.011);
- 5 (b) Assault in the second degree (RCW 9A.36.021);
- 6 (c) Assault in the third degree (RCW 9A.36.031);
- 7 (d) Assault in the fourth degree (RCW 9A.36.041);
- 8 (e) (~~Reckless endangerment in the first degree~~) Drive-by
9 shooting (RCW 9A.36.045);
- 10 (f) Reckless endangerment (~~in the second degree~~) (RCW
11 9A.36.050);
- 12 (g) Coercion (RCW 9A.36.070);
- 13 (h) Burglary in the first degree (RCW 9A.52.020);
- 14 (i) Burglary in the second degree (RCW 9A.52.030);
- 15 (j) Criminal trespass in the first degree (RCW 9A.52.070);
- 16 (k) Criminal trespass in the second degree (RCW 9A.52.080);
- 17 (l) Malicious mischief in the first degree (RCW 9A.48.070);
- 18 (m) Malicious mischief in the second degree (RCW 9A.48.080);
- 19 (n) Malicious mischief in the third degree (RCW 9A.48.090);
- 20 (o) Kidnapping in the first degree (RCW 9A.40.020);
- 21 (p) Kidnapping in the second degree (RCW 9A.40.030);
- 22 (q) Unlawful imprisonment (RCW 9A.40.040);
- 23 (r) Violation of the provisions of a restraining order restraining
24 the person or restraining the person from going onto the grounds of or
25 entering a residence, workplace, school, or day care (RCW 26.09.300,
26 26.10.220, or 26.26.138);
- 27 (s) Violation of the provisions of a protection order or no-
28 contact order restraining the person or restraining the person from
29 going onto the grounds of or entering a residence, workplace, school,
30 or day care (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or
31 10.99.050);
- 32 (t) Rape in the first degree (RCW 9A.44.040);
- 33 (u) Rape in the second degree (RCW 9A.44.050);
- 34 (v) Residential burglary (RCW 9A.52.025);
- 35 (w) Stalking (RCW 9A.46.110); and
- 36 (x) Interference with the reporting of domestic violence (RCW
37 9A.36.150).

38 (4) "Victim" means a family or household member who has been
39 subjected to domestic violence.

1 **Sec. 54.** RCW 10.99.040 and 1996 c 248 s 7 are each amended to
2 read as follows:

3 (1) Because of the serious nature of domestic violence, the court
4 in domestic violence actions:

5 (a) Shall not dismiss any charge or delay disposition because of
6 concurrent dissolution or other civil proceedings;

7 (b) Shall not require proof that either party is seeking a
8 dissolution of marriage prior to instigation of criminal proceedings;

9 (c) Shall waive any requirement that the victim's location be
10 disclosed to any person, other than the attorney of a criminal
11 defendant, upon a showing that there is a possibility of further
12 violence: PROVIDED, That the court may order a criminal defense
13 attorney not to disclose to his or her client the victim's location;
14 and

15 (d) Shall identify by any reasonable means on docket sheets those
16 criminal actions arising from acts of domestic violence.

17 (2) Because of the likelihood of repeated violence directed at
18 those who have been victims of domestic violence in the past, when any
19 person charged with or arrested for a crime involving domestic violence
20 is released from custody before arraignment or trial on bail or
21 personal recognizance, the court authorizing the release may prohibit
22 that person from having any contact with the victim. The jurisdiction
23 authorizing the release shall determine whether that person should be
24 prohibited from having any contact with the victim. If there is no
25 outstanding restraining or protective order prohibiting that person
26 from having contact with the victim, the court authorizing release may
27 issue, by telephone, a no-contact order prohibiting the person charged
28 or arrested from having contact with the victim. In issuing the order,
29 the court shall consider the provisions of RCW 9.41.800. The no-
30 contact order shall also be issued in writing as soon as possible.

31 (3) At the time of arraignment the court shall determine whether
32 a no-contact order shall be issued or extended. If a no-contact order
33 is issued or extended, the court may also include in the conditions of
34 release a requirement that the defendant submit to electronic
35 monitoring. If electronic monitoring is ordered, the court shall
36 specify who shall provide the monitoring services, and the terms under
37 which the monitoring shall be performed. Upon conviction, the court
38 may require as a condition of the sentence that the defendant reimburse
39 the providing agency for the costs of the electronic monitoring.

1 (4) (a) Willful violation of a court order issued under subsection
2 (2) or (3) of this section is a gross misdemeanor except as provided in
3 (b) and (c) of this subsection (4). Upon conviction and in addition to
4 other penalties provided by law, the court may require that the
5 defendant submit to electronic monitoring. The court shall specify who
6 shall provide the electronic monitoring services and the terms under
7 which the monitoring must be performed. The court also may include a
8 requirement that the defendant pay the costs of the monitoring. The
9 court shall consider the ability of the convicted person to pay for
10 electronic monitoring.

11 (b) Any assault that is a violation of an order issued under this
12 section and that does not amount to assault in the first or second
13 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable
14 under chapter 9A.20 RCW, and any conduct in violation of a protective
15 order issued under this section that is reckless and creates a
16 substantial risk of death or serious physical injury to another person
17 is a class C felony punishable under chapter 9A.20 RCW.

18 (c) A willful violation of a court order issued under this section
19 is a class C felony if the offender has at least two previous
20 convictions for violating the provisions of a no-contact order issued
21 under this chapter, a domestic violence protection order issued under
22 chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-
23 state order that is comparable to a no-contact order or protection
24 order issued under Washington law. The previous convictions may
25 involve the same victim or other victims specifically protected by the
26 no-contact orders or protection orders the offender violated.

27 (d) The written order releasing the person charged or arrested
28 shall contain the court's directives and shall bear the legend:
29 "Violation of this order is a criminal offense under chapter 10.99 RCW
30 and will subject a violator to arrest; any assault, drive-by shooting,
31 or reckless endangerment that is a violation of this order is a felony.
32 You can be arrested even if any person protected by the order invites
33 or allows you to violate the order's prohibitions. You have the sole
34 responsibility to avoid or refrain from violating the order's
35 provisions. Only the court can change the order." A certified copy of
36 the order shall be provided to the victim. If a no-contact order has
37 been issued prior to charging, that order shall expire at arraignment
38 or within seventy-two hours if charges are not filed. Such orders need
39 not be entered into the computer-based criminal intelligence

1 information system in this state which is used by law enforcement
2 agencies to list outstanding warrants.

3 (5) Whenever an order prohibiting contact is issued, modified, or
4 terminated under subsection (2) or (3) of this section, the clerk of
5 the court shall forward a copy of the order on or before the next
6 judicial day to the appropriate law enforcement agency specified in the
7 order. Upon receipt of the copy of the order the law enforcement
8 agency shall forthwith enter the order for one year or until the
9 expiration date specified on the order into any computer-based criminal
10 intelligence information system available in this state used by law
11 enforcement agencies to list outstanding warrants. Entry into the law
12 enforcement information system constitutes notice to all law
13 enforcement agencies of the existence of the order. The order is fully
14 enforceable in any jurisdiction in the state.

15 **Sec. 55.** RCW 10.99.050 and 1996 c 248 s 8 are each amended to
16 read as follows:

17 (1) When a defendant is found guilty of a crime and a condition of
18 the sentence restricts the defendant's ability to have contact with the
19 victim, such condition shall be recorded and a written certified copy
20 of that order shall be provided to the victim.

21 (2) Willful violation of a court order issued under this section
22 is a gross misdemeanor. Any assault that is a violation of an order
23 issued under this section and that does not amount to assault in the
24 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C
25 felony, and any conduct in violation of a protective order issued under
26 this section that is reckless and creates a substantial risk of death
27 or serious physical injury to another person is a class C felony. A
28 willful violation of a court order issued under this section is also a
29 class C felony if the offender has at least two previous convictions
30 for violating the provisions of a no-contact order issued under this
31 chapter, or a domestic violence protection order issued under chapter
32 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order
33 that is comparable to a no-contact order or protection order that is
34 issued under Washington law. The previous convictions may involve the
35 same victim or other victims specifically protected by the no-contact
36 orders or protection orders the offender violated.

37 The written order shall contain the court's directives and shall
38 bear the legend: Violation of this order is a criminal offense under

1 chapter 10.99 RCW and will subject a violator to arrest; any assault,
2 drive-by shooting, or reckless endangerment that is a violation of this
3 order is a felony.

4 (3) Whenever an order prohibiting contact is issued pursuant to
5 this section, the clerk of the court shall forward a copy of the order
6 on or before the next judicial day to the appropriate law enforcement
7 agency specified in the order. Upon receipt of the copy of the order
8 the law enforcement agency shall forthwith enter the order for one year
9 into any computer-based criminal intelligence information system
10 available in this state used by law enforcement agencies to list
11 outstanding warrants. Entry into the law enforcement information
12 system constitutes notice to all law enforcement agencies of the
13 existence of the order. The order is fully enforceable in any
14 jurisdiction in the state.

15 NEW SECTION. Sec. 56. A new section is added to chapter 43.121
16 RCW to read as follows:

17 The legislature of the state of Washington finds that community
18 deterioration and family disintegration are increasing problems in our
19 state. One clear indicator of this damage is juvenile crime and
20 violence. The legislature further finds that prevention is one of the
21 best methods of fighting juvenile crime. Building more facilities to
22 house juvenile offenders can be at best only one part of any solution.
23 Any increased spending on confining juvenile offenders must be closely
24 linked to existing efforts to prevent juvenile crime.

25 NEW SECTION. Sec. 57. The sentencing guidelines commission shall
26 review conviction data for the past ten years. The commission shall
27 submit a proposed bill to the legislature for introduction in the 1998
28 legislative session that appropriately ranks all unranked felony
29 offenses for which there have been convictions for the period studied.

30 NEW SECTION. Sec. 58. The legislature finds that it is necessary
31 to improve the analysis, evaluation, and forecasting of sentencing and
32 treatment alternatives for adult and juvenile offenders.

33 In order to establish a universally accepted measuring tool for
34 use in making informed corrections and public safety policy decisions
35 in the adult and juvenile corrections systems, the Washington state
36 institute for public policy shall develop a proposed definition of

1 recidivism. The institute's definition shall provide the legislature
2 and the governor with an objective, outcome-based standard for
3 measuring the success of programs in increasing public safety and
4 reducing subsequent offenses by convicted persons.

5 The definition shall be reported to the governor and the
6 legislature by December 31, 1997.

7 NEW SECTION. **Sec. 59.** The legislature finds it critical to
8 evaluate the effectiveness of the revisions made in this act to
9 juvenile sentencing for purposes of measuring improvements in public
10 safety and reduction of recidivism.

11 To accomplish this evaluation, the Washington state institute for
12 public policy shall conduct a study of the sentencing revisions. The
13 study shall: (1) Be conducted starting January 1, 2001; (2) examine
14 whether the revisions have affected the rate of initial offense
15 commission and recidivism; (3) determine the impacts of the revisions
16 by age, race, and gender impacts of the revisions; (4) compare the
17 utilization and effectiveness of sentencing alternatives and manifest
18 injustice determinations before and after the revisions; and (5)
19 examine the impact and effectiveness of changes made in the exclusive
20 original jurisdiction of juvenile court over juvenile offenders.

21 The institute shall report the results of the study to the
22 governor and legislature not later than July 1, 2002.

23 NEW SECTION. **Sec. 60.** The legislature finds that meaningful
24 community involvement is vital to the juvenile justice system's ability
25 to respond to the serious problem of juvenile crime. Citizens and
26 crime victims need to be active partners in responding to crime, in the
27 management of resources, and in the disposition decisions regarding
28 juvenile offenders in their community. Involvement of citizens and
29 crime victims increase offender accountability and build healthier
30 communities, which will reduce recidivism and crime rates in Washington
31 state.

32 The legislature also finds that local governments are in the best
33 position to develop, coordinate, and manage local community prevention,
34 intervention, and corrections programs for juvenile offenders, and to
35 determine local resource priorities. Local community management will
36 build upon local values and increase local control of resources,

1 encourage the use of a comprehensive range of community-based
2 intervention strategies.

3 The primary purpose of sections 60 through 64 of this act, the
4 community juvenile accountability act, is to provide a continuum of
5 community-based programs that emphasize the juvenile offender's
6 accountability for his or her actions while assisting him or her in the
7 development of skills necessary to function effectively and positively
8 in the community in a manner consistent with public safety.

9 NEW SECTION. **Sec. 61.** (1) In order to receive funds under
10 sections 60 through 64 of this act, local governments may, through
11 their respective agencies that administer funding for consolidated
12 juvenile services, submit proposals that establish community juvenile
13 accountability programs within their communities. These proposals must
14 be submitted to the juvenile rehabilitation administration of the
15 department of social and health services for certification.

16 (2) The proposals must:

17 (a) Demonstrate that the proposals were developed with the input
18 of the community public health and safety networks established under
19 RCW 70.190.060, and the local law and justice councils established
20 under RCW 72.09.300;

21 (b) Describe how local community groups or members are involved in
22 the implementation of the programs funded under sections 60 through 64
23 of this act;

24 (c) Include a description of how the grant funds will contribute
25 to the expected outcomes of the program and the reduction of youth
26 violence and juvenile crime in their community. Data approaches are
27 not required to be replicated if the networks have information that
28 addresses risks in the community for juvenile offenders.

29 (3) A local government receiving a grant under this section shall
30 agree that any funds received must be used efficiently to encourage the
31 use of community-based programs that reduce the reliance on secure
32 confinement as the sole means of holding juvenile offenders accountable
33 for their crimes. The local government shall also agree to account for
34 the expenditure of all funds received under the grant and to submit to
35 audits for compliance with the grant criteria developed under section
36 62 of this act.

37 (4) The juvenile rehabilitation administration, in consultation
38 with the Washington association of juvenile court administrators, the

1 state law and justice advisory council, and the family policy council,
2 shall establish guidelines for programs that may be funded under
3 sections 60 through 64 of this act. The guidelines must:

- 4 (a) Target diverted and adjudicated juvenile offenders;
- 5 (b) Include assessment methods to determine services, programs,
6 and intervention strategies most likely to change behaviors and norms
7 of juvenile offenders;
- 8 (c) Provide maximum structured supervision in the community.
9 Programs should use natural surveillance and community guardians such
10 as employers, relatives, teachers, clergy, and community mentors to the
11 greatest extent possible;
- 12 (d) Promote good work ethic values and educational skills and
13 competencies necessary for the juvenile offender to function
14 effectively and positively in the community;
- 15 (e) Maximize the efficient delivery of treatment services aimed at
16 reducing risk factors associated with the commission of juvenile
17 offenses;
- 18 (f) Maximize the reintegration of the juvenile offender into the
19 community upon release from confinement;
- 20 (g) Maximize the juvenile offender's opportunities to make full
21 restitution to the victims and amends to the community;
- 22 (h) Support and encourage increased court discretion in imposing
23 community-based intervention strategies;
- 24 (i) Be compatible with research that shows which prevention and
25 early intervention strategies work with juvenile offenders;
- 26 (j) Be outcome-based in that it describes what outcomes will be
27 achieved or what outcomes have already been achieved;
- 28 (k) Include an evaluation component; and
- 29 (l) Recognize the diversity of local needs.

30 (5) The state law and justice advisory council, with the
31 assistance of the family policy council and the governor's juvenile
32 justice advisory committee, may provide support and technical
33 assistance to local governments for training and education regarding
34 community-based prevention and intervention strategies.

35 NEW SECTION. **Sec. 62.** (1) The state may make grants to local
36 governments for the provision of community-based programs for juvenile
37 offenders. The grants must be made under a grant formula developed by

1 the juvenile rehabilitation administration, in consultation with the
2 Washington association of juvenile court administrators.

3 (2) Upon certification by the juvenile rehabilitation
4 administration that a proposal satisfies the application and selection
5 criteria, grant funds will be distributed to the local government
6 agency that administers funding for consolidated juvenile services.

7 NEW SECTION. **Sec. 63.** The legislature recognizes the importance
8 of evaluation and outcome measurements of programs serving juvenile
9 offenders in order to ensure cost-effective use of public funds.

10 The Washington state institute for public policy shall develop
11 standards for measuring the effectiveness of juvenile accountability
12 programs established and approved under section 61 of this act. The
13 standards must be developed and presented to the governor and
14 legislature not later than January 1, 1998. The standards must include
15 methods for measuring success factors following intervention. Success
16 factors include, but are not limited to, continued use of alcohol or
17 controlled substances, arrests, violations of terms of community
18 supervision, convictions for subsequent offenses, and restitution to
19 victims.

20 NEW SECTION. **Sec. 64.** (1) Each community juvenile accountability
21 program approved and funded under sections 60 through 64 of this act
22 shall comply with the information collection requirements in subsection
23 (2) of this section and the reporting requirements in subsection (3) of
24 this section.

25 (2) The information collected by each community juvenile
26 accountability program must include, at a minimum for each juvenile
27 participant: (a) The name, date of birth, gender, social security
28 number, and, when available, the juvenile information system (JUVIS)
29 control number; (b) an initial intake assessment of each juvenile
30 participating in the program; (c) a list of all juveniles who completed
31 the program; and (d) an assessment upon completion or termination of
32 each juvenile, including outcomes and, where applicable, reasons for
33 termination.

34 (3) The juvenile rehabilitation administration shall annually
35 compile the data and report to the legislature on: (a) The programs
36 funded under sections 60 through 64 of this act; (b) the total cost for

1 each funded program and cost per juvenile; and (c) the essential
2 elements of the program.

3 NEW SECTION. **Sec. 65.** The Washington state institute for public
4 policy shall evaluate the costs and benefits of the programs funded in
5 sections 60 through 64 of this act. The evaluation must measure
6 whether the programs cost-effectively reduce recidivism and crime rates
7 in Washington state. The institute shall submit reports to the
8 governor and the legislature by December 1, 1998, and December 1, 2000.

9 NEW SECTION. **Sec. 66.** Sections 60 through 64 of this act may be
10 known as the community juvenile accountability act.

11 NEW SECTION. **Sec. 67.** Sections 60 through 64 and 66 of this act
12 are added to chapter 13.40 RCW.

13 **Sec. 68.** RCW 82.44.110 and 1997 c 149 s 911 (SSB 6062) are each
14 amended to read as follows:

15 The county auditor shall regularly, when remitting license fee
16 receipts, pay over and account to the director of licensing for the
17 excise taxes collected under the provisions of this chapter. The
18 director shall forthwith transmit the excise taxes to the state
19 treasurer.

20 (1) The state treasurer shall deposit the excise taxes collected
21 under RCW 82.44.020(1) as follows:

22 (a) 1.60 percent into the motor vehicle fund to defray
23 administrative and other expenses incurred by the department in the
24 collection of the excise tax.

25 (b) 8.15 percent into the Puget Sound capital construction account
26 in the motor vehicle fund.

27 (c) 4.07 percent into the Puget Sound ferry operations account in
28 the motor vehicle fund.

29 (d) 5.88 percent into the general fund to be distributed under RCW
30 82.44.155.

31 (e) 4.75 percent into the municipal sales and use tax equalization
32 account in the general fund created in RCW 82.14.210.

33 (f) 1.60 percent into the county sales and use tax equalization
34 account in the general fund created in RCW 82.14.200.

1 (g) 62.6440 percent into the general fund through June 30, 1995,
2 and 57.6440 percent into the general fund beginning July 1, 1995.

3 (h) 5 percent into the transportation fund created in RCW
4 82.44.180 beginning July 1, 1995.

5 (i) 5.9686 percent into the county criminal justice assistance
6 account created in RCW 82.14.310.

7 (j) 1.1937 percent into the municipal criminal justice assistance
8 account for distribution under RCW 82.14.320.

9 (k) 1.1937 percent into the municipal criminal justice assistance
10 account for distribution under RCW 82.14.330.

11 (l) 2.95 percent into the county public health account created in
12 RCW 70.05.125.

13 Notwithstanding (i) through (k) of this subsection, no more than
14 sixty million dollars shall be deposited into the accounts specified in
15 (i) through (k) of this subsection for the period January 1, 1994,
16 through June 30, 1995. Not more than five percent of the funds
17 deposited to these accounts shall be available for appropriations for
18 enhancements to the state patrol crime laboratory system and the
19 continuing costs related to these enhancements. Motor vehicle excise
20 tax funds appropriated for such enhancements shall not supplant
21 existing funds from the state general fund. For the fiscal year ending
22 June 30, 1998, and for each fiscal year thereafter, the amounts
23 deposited into the accounts specified in (i) through (k) of this
24 subsection shall not increase by more than the amounts deposited into
25 those accounts in the previous fiscal year increased by the implicit
26 price deflator for the previous fiscal year. Any revenues in excess of
27 this amount shall be deposited into the violence reduction and drug
28 enforcement account (~~(during the 1997-99 fiscal biennium)~~).

29 (2) The state treasurer shall deposit the excise taxes collected
30 under RCW 82.44.020(2) into the transportation fund.

31 (3) The state treasurer shall deposit the excise tax imposed by
32 RCW 82.44.020(3) into the air pollution control account created by RCW
33 70.94.015.

34 **Sec. 69.** RCW 69.50.520 and 1997 c 149 s 912 (SSB 6062) are each
35 amended to read as follows:

36 The violence reduction and drug enforcement account is created in
37 the state treasury. All designated receipts from RCW 9.41.110(7),
38 66.24.210(4), 66.24.290(3), 69.50.505(h)(1), 82.08.150(5),

1 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989
2 shall be deposited into the account. Expenditures from the account may
3 be used only for funding services and programs under chapter 271, Laws
4 of 1989 and chapter 7, Laws of 1994 sp. sess., including state
5 incarceration costs. Funds from the account may also be appropriated
6 to reimburse local governments for costs associated with implementing
7 criminal justice legislation including chapter . . ., Laws of 1997
8 (this act). During the 1997-1999 biennium, funds from the account may
9 also be used (~~(to implement Engrossed Third Substitute House Bill No.~~
10 ~~3900 (juvenile code revisions), including local government costs, and)~~)
11 for costs associated with conducting a feasibility study of the
12 department of corrections' offender-based tracking system. After July
13 1, 1999, at least seven and one-half percent of expenditures from the
14 account shall be used for providing grants to community networks under
15 chapter 70.190 RCW by the family policy council.

16 **Sec. 70.** RCW 13.40.080 and 1997 c 121 s 8 are each amended to
17 read as follows:

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

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

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

31 (b) Restitution limited to the amount of actual loss incurred by
32 the victim;

33 (c) Attendance at up to ten hours of counseling and/or up to
34 twenty hours of educational or informational sessions at a community
35 agency. The educational or informational sessions may include sessions
36 relating to respect for self, others, and authority; victim awareness;
37 accountability; self-worth; responsibility; work ethics; good
38 citizenship; literacy; and life skills. For purposes of this section,

1 "community agency" may also mean a community-based nonprofit
2 organization, if approved by the diversion unit. The state shall not
3 be liable for costs resulting from the diversionary unit exercising the
4 option to permit diversion agreements to mandate attendance at up to
5 ten hours of counseling and/or up to twenty hours of educational or
6 informational sessions;

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

13 (e) Requirements to remain during specified hours at home, school,
14 or work, and restrictions on leaving or entering specified geographical
15 areas.

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

25 (4) (a) A diversion agreement may not exceed a period of six months
26 and may include a period extending beyond the eighteenth birthday of
27 the divertee.

28 (b) If additional time is necessary for the juvenile to complete
29 restitution to the victim, the time period limitations of this
30 subsection may be extended by an additional six months.

31 (c) If the juvenile has not paid the full amount of restitution by
32 the end of the additional six-month period, then the juvenile shall be
33 referred to the juvenile court for entry of an order establishing the
34 amount of restitution still owed to the victim. In this order, the
35 court shall also determine the terms and conditions of the restitution,
36 including a payment plan extending up to ten years if the court
37 determines that the juvenile does not have the means to make full
38 restitution over a shorter period. For the purposes of this subsection
39 (4) (c), the juvenile shall remain under the court's jurisdiction for a

1 maximum term of ten years after the juvenile's eighteenth birthday.
2 Prior to the expiration of the initial ten-year period, the juvenile
3 court may extend the judgment for restitution an additional ten years.
4 The court may not require the juvenile to pay full or partial
5 restitution if the juvenile reasonably satisfies the court that he or
6 she does not have the means to make full or partial restitution and
7 could not reasonably acquire the means to pay the restitution over a
8 ten-year period. The county clerk shall make disbursements to victims
9 named in the order. The restitution to victims named in the order
10 shall be paid prior to any payment for other penalties or monetary
11 assessments. A juvenile under obligation to pay restitution may
12 petition the court for modification of the restitution order.

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

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

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

22 (b) Violation of the terms of the agreement shall be the only
23 grounds for termination;

24 (c) No diverttee may be terminated from a diversion program without
25 being given a court hearing, which hearing shall be preceded by:

26 (i) Written notice of alleged violations of the conditions of the
27 diversion program; and

28 (ii) Disclosure of all evidence to be offered against the
29 diverttee;

30 (d) The hearing shall be conducted by the juvenile court and shall
31 include:

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

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

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

37 (iv) Demonstration by evidence that the diverttee has substantially
38 violated the terms of his or her diversion agreement.

1 (e) The prosecutor may file an information on the offense for
2 which the diverttee was diverted:

3 (i) In juvenile court if the diverttee is under eighteen years of
4 age; or

5 (ii) In superior court or the appropriate court of limited
6 jurisdiction if the diverttee is eighteen years of age or older.

7 (7) The diversion unit shall, subject to available funds, be
8 responsible for providing interpreters when juveniles need interpreters
9 to effectively communicate during diversion unit hearings or
10 negotiations.

11 (8) The diversion unit shall be responsible for advising a
12 diverttee of his or her rights as provided in this chapter.

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

15 (10) The right to counsel shall inure prior to the initial
16 interview for purposes of advising the juvenile as to whether he or she
17 desires to participate in the diversion process or to appear in the
18 juvenile court. The juvenile may be represented by counsel at any
19 critical stage of the diversion process, including intake interviews
20 and termination hearings. The juvenile shall be fully advised at the
21 intake of his or her right to an attorney and of the relevant services
22 an attorney can provide. For the purpose of this section, intake
23 interviews mean all interviews regarding the diversion agreement
24 process.

25 The juvenile shall be advised that a diversion agreement shall
26 constitute a part of the juvenile's criminal history as defined by RCW
27 13.40.020(9). A signed acknowledgment of such advisement shall be
28 obtained from the juvenile, and the document shall be maintained by the
29 diversionary unit together with the diversion agreement, and a copy of
30 both documents shall be delivered to the prosecutor if requested by the
31 prosecutor. The supreme court shall promulgate rules setting forth the
32 content of such advisement in simple language.

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

36 (a) The fact that a charge or charges were made;

37 (b) The fact that a diversion agreement was entered into;

38 (c) The juvenile's obligations under such agreement;

1 (d) Whether the alleged offender performed his or her obligations
2 under such agreement; and

3 (e) The facts of the alleged offense.

4 (12) A diversionary unit may refuse to enter into a diversion
5 agreement with a juvenile. When a diversionary unit refuses to enter
6 a diversion agreement with a juvenile, it shall immediately refer such
7 juvenile to the court for action and shall forward to the court the
8 criminal complaint and a detailed statement of its reasons for refusing
9 to enter into a diversion agreement. The diversionary unit shall also
10 immediately refer the case to the prosecuting attorney for action if
11 such juvenile violates the terms of the diversion agreement.

12 (13) A diversionary unit may, in instances where it determines
13 that the act or omission of an act for which a juvenile has been
14 referred to it involved no victim, or where it determines that the
15 juvenile referred to it has no prior criminal history and is alleged to
16 have committed an illegal act involving no threat of or instance of
17 actual physical harm and involving not more than fifty dollars in
18 property loss or damage and that there is no loss outstanding to the
19 person or firm suffering such damage or loss, counsel and release or
20 release such a juvenile without entering into a diversion agreement.
21 A diversion unit's authority to counsel and release a juvenile under
22 this subsection shall include the authority to refer the juvenile to
23 community-based counseling or treatment programs. Any juvenile
24 released under this subsection shall be advised that the act or
25 omission of any act for which he or she had been referred shall
26 constitute a part of the juvenile's criminal history as defined by RCW
27 13.40.020(9). A signed acknowledgment of such advisement shall be
28 obtained from the juvenile, and the document shall be maintained by the
29 unit, and a copy of the document shall be delivered to the prosecutor
30 if requested by the prosecutor. The supreme court shall promulgate
31 rules setting forth the content of such advisement in simple language.
32 A juvenile determined to be eligible by a diversionary unit for release
33 as provided in this subsection shall retain the same right to counsel
34 and right to have his or her case referred to the court for formal
35 action as any other juvenile referred to the unit.

36 (14) A diversion unit may supervise the fulfillment of a diversion
37 agreement entered into before the juvenile's eighteenth birthday and
38 which includes a period extending beyond the divertee's eighteenth
39 birthday.

1 (15) If a fine required by a diversion agreement cannot reasonably
2 be paid due to a change of circumstance, the diversion agreement may be
3 modified at the request of the divertee and with the concurrence of the
4 diversion unit to convert an unpaid fine into community service. The
5 modification of the diversion agreement shall be in writing and signed
6 by the divertee and the diversion unit. The number of hours of
7 community service in lieu of a monetary penalty shall be converted at
8 the rate of the prevailing state minimum wage per hour.

9 (16) Fines imposed under this section shall be collected and paid
10 into the county general fund in accordance with procedures established
11 by the juvenile court administrator under RCW 13.04.040 and may be used
12 only for juvenile services. In the expenditure of funds for juvenile
13 services, there shall be a maintenance of effort whereby counties
14 exhaust existing resources before using amounts collected under this
15 section.

16 NEW SECTION. **Sec. 71.** The code reviser shall alphabetize the
17 definitions in RCW 13.40.020 and correct any references.

18 NEW SECTION. **Sec. 72.** The following acts or parts of acts are
19 each repealed:

- 20 (1) RCW 9.94A.045 and 1996 c 232 s 2;
21 (2) RCW 13.40.025 and 1996 c 232 s 4, 1995 c 269 s 302, 1986 c 288
22 s 8, 1984 c 287 s 11, & 1981 c 299 s 3;
23 (3) RCW 13.40.075 and 1994 sp.s. c 7 s 546; and
24 (4) RCW 13.40.125 and 1995 c 395 s 6 & 1994 sp.s. c 7 s 545.

25 NEW SECTION. **Sec. 73.** RCW 13.40.0354 and 1994 sp.s. c 7 s 521 &
26 1989 c 407 s 6 are each repealed effective July 1, 1998.

27 NEW SECTION. **Sec. 74.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 75.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect

1 July 1, 1997, except sections 10, 12, 18, 24 through 26, 30, 38, and 59
2 of this act which take effect July 1, 1998.

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