
SENATE BILL 5705

State of Washington 55th Legislature 1997 Regular Session

By Senators Long, Hargrove, Franklin, Zarelli and Kohl

Read first time 02/07/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to juvenile offenders; amending RCW 13.40.010,
2 13.40.030, 13.40.038, 13.40.040, 13.40.045, 13.40.050, 13.40.054,
3 13.40.060, 13.40.077, 13.40.080, 13.40.100, 13.40.120, 13.40.125,
4 13.40.130, 13.40.135, 13.40.150, 13.40.160, 13.40.185, 13.40.190,
5 13.40.193, 13.40.210, 13.40.230, 13.40.265, 5.60.060, 13.04.011,
6 13.32A.030, 13.32A.140, 13.32A.191, 13.32A.196, 13.32A.198, 13.34.030,
7 13.50.050, 13.70.010, 13.80.020, and 43.43.735; reenacting and amending
8 RCW 13.40.020, 9.94A.030, and 13.04.030; adding new sections to chapter
9 13.40 RCW; adding a new section to chapter 2.56 RCW; adding a new
10 section to chapter 2.08 RCW; adding a new section to chapter 36.67 RCW;
11 adding a new section to chapter 70.96A RCW; adding a new section to
12 chapter 43.330 RCW; creating new sections; repealing RCW 13.40.025;
13 prescribing penalties; making appropriations; providing effective
14 dates; and declaring an emergency.

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

16 NEW SECTION. **Sec. 1.** The legislature recognizes there is a need
17 for comprehensive revision to our state and local government juvenile
18 justice system and that no major systemic changes have taken place in
19 the twenty years since the current practices were put in place.

1 This act recognizes the long-term upward trend in the number and
2 rates of juvenile offenses and the frustration experienced by parents,
3 law enforcement, and the judiciary in addressing these increases. The
4 legislature intends to reverse the trends over a long-term basis and to
5 improve the public's confidence in the juvenile justice system.

6 The intent of this act is to accomplish the following goals: (1)
7 Reduce recidivism among juvenile offenders; (2) reduce the number and
8 rate of juvenile offenses; (3) increase the ability of families, public
9 agencies, and community groups to use early intervention and prevention
10 programs that successfully identify and target risk factors associated
11 with juvenile offenses; (4) emphasize rehabilitation for juveniles
12 before they become chronic offenders; (5) improve the coordination
13 among agencies serving juvenile offenders and their families; and (6)
14 use data and research to prioritize funding for successful programs
15 that are outcome based.

16 The intent of this act is to bring about planned, long-range
17 systemic improvements to the juvenile justice system and public safety
18 and is not intended to be an immediate solution to all concerns about
19 juvenile crime. The legislature recognizes the importance of
20 evaluations and outcome measurements of programs serving juvenile
21 offenders in order to ensure cost-effective use of public funds. This
22 act should not be construed as creating an ongoing commitment to any
23 program or effort that does not accomplish the goals of this act.

24 The legislature intends this act to be understood as a unified
25 approach, and declares that a rational unity exists between the various
26 sections and its overall subject, juvenile justice reform.

27 NEW SECTION. **Sec. 2.** The legislature intends to improve delivery
28 of services that are designed to reduce juvenile offenses. The
29 improvement shall include expanded, more efficient, and better targeted
30 services for: (1) Assessment of juvenile offenders to determine
31 services and programs most likely to provide changed behavior and
32 norms; (2) delivery of services to families, juveniles, and offenders
33 to reduce risk factors associated with the commission of juvenile
34 offenses; (3) prevention of reoffenses; (4) treatment of juvenile
35 offenders whose chemical abuse or dependencies contribute to commission
36 of offenses; (5) increased emphasis on early intervention with
37 offenders when diverted or upon first conviction to reduce the
38 likelihood of recidivism; (6) improvement in the ability of families

1 and juveniles to accept responsibility for their conduct; and (7)
2 treatment of juvenile offenders who have a history of sex offenses.

3 The legislature intends funding decisions, made to implement the
4 intent of this act, be based on research and outcome data, and reflect
5 the most cost-efficient analysis likely to achieve these goals.

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

8 (1) This chapter shall be known and cited as the juvenile justice
9 act (~~of 1977~~).

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

21 (a) Protect the citizenry from criminal behavior;

22 (b) Provide for determining whether accused juveniles have
23 committed offenses (~~as defined by this chapter~~);

24 (c) Make the juvenile offender accountable for his or her criminal
25 behavior;

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

28 (e) Provide due process for juveniles alleged to have committed an
29 offense;

30 (f) Provide necessary treatment, supervision, and custody for
31 juvenile offenders;

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

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

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

1 (j) Provide for a clear policy to determine what types of offenders
2 shall receive punishment, treatment, or both, and to determine the
3 jurisdictional limitations of the courts, institutions, and community
4 services;

5 (k) Encourage the active participation of the parents, guardian, or
6 custodian of the juvenile in the juvenile justice process; and

7 (l) Promote equitable treatment of juveniles and their families
8 without regard to race, ethnicity, gender, creed, or religion.

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

11 For the purposes of this chapter:

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

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

16 ~~(b) Manslaughter in the first degree; or~~

17 ~~(c) Assault in the second degree, extortion in the first degree,~~
18 ~~child molestation in the second degree, kidnapping in the second~~
19 ~~degree, robbery in the second degree, residential burglary, or burglary~~
20 ~~in the second degree, where such offenses include the infliction of~~
21 ~~bodily harm upon another or where during the commission of or immediate~~
22 ~~withdrawal from such an offense the perpetrator is armed with a deadly~~
23 ~~weapon;~~

24 ~~(2))~~ "Assistant secretary" means the assistant secretary for
25 juvenile rehabilitation for the department;

26 (2) "Community accountability board" means a board comprised of
27 members of the local community in which the juvenile offender resides;

28 (3) "Community service" means compulsory service, without
29 compensation, performed for the benefit of the community by the
30 offender as punishment for committing an offense. Community service
31 may be performed through public or private organizations or through
32 work crews;

33 ~~((3))~~ (4) "Community supervision" means an order of disposition
34 by the court of an adjudicated youth not committed to the department or
35 an order granting a deferred adjudication pursuant to RCW 13.40.125(
36 A community supervision order for a single offense may be for a period
37 of up to two years for a sex offense as defined by RCW 9.94A.030 and up
38 to one year for other offenses. As a mandatory condition of any term

1 of community supervision, the court shall order the juvenile to refrain
2 from committing new offenses. As a mandatory condition of community
3 supervision, the court shall order the juvenile to comply with the
4 mandatory school attendance provisions of chapter 28A.225 RCW and to
5 inform the school of the existence of this requirement. Community
6 supervision is an individualized program comprised of one or more of
7 the following:

8 (a) Community-based sanctions;

9 (b) Community-based rehabilitation;

10 (c) Monitoring and reporting requirements;

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

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

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

15 (b) Community service not to exceed one hundred fifty hours of
16 service)) or an order granting a deferred disposition under section 20
17 of this act;

18 (5) "Community-based rehabilitation" means one or more of the
19 following: Attendance of information classes; counseling, outpatient
20 substance abuse treatment programs, outpatient mental health programs,
21 anger management classes, education or outpatient treatment programs to
22 prevent animal cruelty, or other services; or attendance at school or
23 other educational programs appropriate for the juvenile as determined
24 by the school district((. Placement in community-based rehabilitation
25 programs is subject to available funds));

26 (6) ("Monitoring and reporting requirements" means one or more of
27 the following: Curfews; requirements to remain at home, school, work,
28 or court-ordered treatment programs during specified hours;
29 restrictions from leaving or entering specified geographical areas;
30 requirements to report to the probation officer as directed and to
31 remain under the probation officer's supervision; and other conditions
32 or limitations as the court may require which may not include
33 confinement;

34 (7)) "Confinement" means physical custody by the department ((of
35 social and health services)) in a facility operated by or pursuant to
36 a contract with the state, or physical custody in a detention facility
37 operated by or pursuant to a contract with any county((. The county
38 may operate or contract with vendors to operate county detention
39 facilities. The department may operate or contract to operate

1 ~~detention facilities for juveniles committed to the department.~~
2 ~~Pretrial confinement or confinement of less than thirty one days~~
3 ~~imposed as part of a disposition or modification order may be served~~
4 ~~consecutively or intermittently, in the discretion of the court));~~

5 ((+8)) (7) "Court", when used without further qualification, means
6 the juvenile court judge(s) or commissioner(s);

7 ((+9)) (8) "Criminal history" includes all criminal complaints
8 against the respondent for which, prior to the commission of a current
9 offense:

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

14 (b) The criminal complaint was diverted by a prosecutor pursuant to
15 the provisions of this chapter on agreement of the respondent and after
16 an advisement to the respondent that the criminal complaint would be
17 considered as part of the respondent's criminal history. A
18 successfully completed deferred adjudication or disposition shall not
19 be considered part of the respondent's criminal history;

20 ((-10) ~~"Department" means the department of social and health~~
21 ~~services;~~

22 (+11)) (9) "Day reporting" means a program of enhanced supervision
23 designed to monitor the defendant's daily activities and compliance
24 with sentence conditions, and in which the defendant is required to
25 report daily to a specific location designated by the department, the
26 administrator of the detention facility, or the sentencing judge.

27 (10) "Detention facility" means a ((county)) facility, including
28 county group homes, inpatient substance abuse programs, and juvenile
29 basic training camps, which are: (a) Operated or paid for by the
30 county((-)); and (b) utilized for the physical confinement of a
31 juvenile alleged to have committed an offense or ((an adjudicated
32 offender)) convicted of an offense and subject to a disposition or
33 modification order((". ~~"Detention facility" includes county group~~
34 ~~homes, inpatient substance abuse programs, juvenile basic training~~
35 ~~camps, and electronic monitoring));~~

36 ((-12)) (11) "Diversion unit" means any probation counselor who
37 enters into a diversion agreement with an alleged youthful offender, or
38 any other person, community accountability board, or other entity
39 except a law enforcement official or entity, with whom the juvenile

1 court administrator has contracted to arrange and supervise such
2 agreements pursuant to RCW 13.40.080, or any person, community
3 accountability board, or other entity specially funded by the
4 legislature to arrange and supervise diversion agreements in accordance
5 with the requirements of this chapter(~~(. For purposes of this~~
6 ~~subsection, "community accountability board" means a board comprised of~~
7 ~~members of the local community in which the juvenile offender resides.~~
8 ~~The superior court shall appoint the members. The boards shall consist~~
9 ~~of at least three and not more than seven members. If possible, the~~
10 ~~board should include a variety of representatives from the community,~~
11 ~~such as a law enforcement officer, teacher or school administrator,~~
12 ~~high school student, parent, and business owner, and should represent~~
13 ~~the cultural diversity of the local community));~~

14 (12) "Foster care" means temporary physical care in a foster family
15 home or group care facility as defined in RCW 74.15.020 and licensed by
16 the department, or other legally authorized care;

17 (13) "Home detention" has the same meaning as in RCW 9.94A.030;

18 (14) "Institution" means a juvenile facility established pursuant
19 to chapters 72.05 and 72.16 through 72.20 RCW;

20 ~~((+14+))~~ (15) "Intensive supervision program" means a parole
21 program that requires intensive supervision and monitoring, offers an
22 array of individualized treatment and transitional services, and
23 emphasizes community involvement and support in order to reduce the
24 likelihood a juvenile offender will commit further offenses;

25 (16) "Juvenile," "youth," and "child" mean any individual who is
26 under the chronological age of eighteen years and who has not been
27 previously transferred to adult court pursuant to RCW 13.40.110 or who
28 is otherwise under adult criminal court jurisdiction pursuant to RCW
29 13.04.030;

30 ~~((+15+))~~ (17) "Juvenile offender" means any juvenile who has been
31 found by the juvenile court to have committed an offense, including a
32 person eighteen years of age or older over whom jurisdiction has been
33 extended under RCW 13.40.300;

34 ~~((+16+))~~ (18) "Manifest injustice" means a disposition that would
35 either impose an excessive penalty on the juvenile or would impose a
36 serious, and clear danger to society in light of the purposes of this
37 chapter;

1 (~~(17)~~) (19) "Middle offender" means a person who has committed an
2 offense and who is neither a minor or first offender nor a serious
3 offender;

4 (~~(18)~~) (20) "Minor or first offender" means a person whose
5 current offense(s) and criminal history fall entirely within one of the
6 following categories:

7 (a) Four misdemeanors;

8 (b) Two misdemeanors and one gross misdemeanor;

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

10 (d) Three gross misdemeanors.

11 For purposes of this definition, current violations shall be
12 counted as misdemeanors;

13 (~~(19)~~) (21) "Monitoring and reporting requirements" means
14 reporting to and remaining under the authority of the probation officer
15 as directed and to remain under the probation officer's supervision and
16 other conditions or limitations as the court may require which may not
17 include confinement;

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

22 (23) "Probation bond" means: (a) A bond, posted with sufficient
23 security by a surety justified and approved by the court, to secure the
24 offender's appearance at required court proceedings and compliance with
25 court-ordered community supervision or conditions of release ordered
26 pursuant to RCW 13.40.040 or 13.40.050; or (b) a deposit of cash or
27 posting of other collateral in lieu of a bond if approved by the court;

28 (~~(20)~~) (24) "Respondent" means a juvenile who is alleged or
29 proven to have committed an offense;

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

1 ~~(22) "Secretary" means the secretary of the department of social~~
2 ~~and health services.~~

3 ~~"Assistant secretary" means the assistant secretary for juvenile~~
4 ~~rehabilitation for the department));~~

5 ~~((23))~~ (26) "Serious offender" means a person fifteen years of
6 age or older who has committed an offense which if committed by an
7 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 (27) "Services" mean services which provide alternatives to
18 incarceration for those juveniles who have pleaded or been adjudicated
19 guilty of an offense or have signed a diversion agreement pursuant to
20 this chapter;

21 ~~((24))~~ (28) "Sex offense" means an offense defined as a sex
22 offense in RCW 9.94A.030;

23 ~~((25))~~ (29) "Sexual motivation" means that one of the purposes
24 for which the respondent committed the offense was for the purpose of
25 his or her sexual gratification;

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

29 ~~(27))~~ (30) "Surety" means an entity licensed under state insurance
30 laws or by the state department of licensing, to write corporate,
31 property, or probation bonds within the state, and justified and
32 approved by the superior court of the county having jurisdiction of the
33 case;

34 (31) "Violation" means an act or omission, which if committed by an
35 adult, must be proven beyond a reasonable doubt, and is punishable by
36 sanctions which do not include incarceration;

37 ~~((28))~~ (32) "Violent offense" means a violent offense as defined
38 in RCW 9.94A.030(;

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

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

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40 RCW
13 to read as follows:

14 (1) A community supervision order for a single offense may be for
15 a period of up to two years for a sex offense as defined by RCW
16 9.94A.030 and up to one year for other offenses. As a mandatory
17 condition of any term of community supervision, the court shall order
18 the juvenile to: (a) Refrain from committing new offenses; and (b)
19 comply with the mandatory school attendance provisions of chapter
20 28A.225 RCW and to inform the school of the existence of this
21 requirement.

22 (2) Community supervision is an individualized program comprised of
23 one or more of the following:

24 (a) Community-based sanctions;

25 (b) Community-based rehabilitation;

26 (c) Monitoring and reporting requirements;

27 (d) Posting of a probation bond as provided in RCW 13.40.054; and

28 (e) Day reporting.

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

31 (a) Curfews;

32 (b) Requirements to remain at home, school, work, or court-ordered
33 treatment programs during specified hours;

34 (c) Restrictions from leaving or entering specified geographical
35 areas;

36 (d) A fine, not to exceed one hundred dollars; and

37 (e) Community service not to exceed one hundred fifty hours of
38 service.

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

3 Placement in community-based rehabilitation programs is subject to
4 available funds.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.40 RCW
6 to read as follows:

7 The superior court, in each judicial district, shall appoint
8 members of the community accountability boards in the district. The
9 boards shall have at least three and not more than seven members. The
10 court shall make every effort to provide a variety of representatives
11 from the community, including but not limited to representatives of law
12 enforcement, teaching and education administration, high school
13 students, and business owners. Each board shall be representative of
14 the communities which it serves.

15 **Sec. 8.** RCW 13.40.030 and 1996 c 232 s 5 are each amended to read
16 as follows:

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

35 ~~(2) The permissible ranges of confinement resulting from a finding~~
36 ~~of manifest injustice under RCW 13.40.0357 are subject to the following~~
37 ~~limitations:~~

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

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

7 ~~(c) Where the maximum term in the range is more than one year, the~~
8 ~~minimum term in the range may be no less than eighty percent of the~~
9 ~~maximum term in the range.))~~ an annual report to the governor and

10 legislature on security at juvenile facilities. The report shall be
11 submitted by December 15th and include:

12 (1) Security status definitions;

13 (2) The number of escapes from each facility;

14 (3) The number of juveniles who were recaptured while on escape
15 status and the location where each recapture occurred;

16 (4) The steps taken to reduce escapes;

17 (5) The length of time each juvenile was on escape status;

18 (6) The most serious offense for which each juvenile was confined
19 when he or she escaped or was granted leave;

20 (7) The number and nature of offenses committed by juveniles while
21 on escape status;

22 (8) The number of leaves granted;

23 (9) The number of violations of leave conditions;

24 (10) The number of offenses committed by juveniles while on leave;

25 (11) The steps taken to reduce offenses and violations while on
26 leave; and

27 (12) The number and nature of offenses committed by juveniles while
28 in the community on minimum security status.

29 The secretary shall include in the report a copy of all standard
30 tools used to assess the juveniles committed to the department and
31 shall identify changes in the tools which have been made since the
32 submittal of the report in the preceding year.

33 **Sec. 9.** RCW 13.40.038 and 1992 c 205 s 105 are each amended to
34 read as follows:

35 (1) It is the policy of this state that all ((county juvenile))
36 detention facilities provide a humane, safe, and rehabilitative
37 environment and that unadjudicated youth remain in the community

1 whenever possible, consistent with public safety and the provisions of
2 chapter 13.40 RCW.

3 (2) The counties shall develop and implement detention intake
4 standards and risk assessment standards to determine whether detention
5 is warranted and if so whether the juvenile should be placed in secure,
6 nonsecure, or home detention to implement the goals of this section.
7 Inability to pay for a less restrictive detention placement shall not
8 be a basis for denying a respondent a less restrictive placement in the
9 community. ((The detention and risk assessment standards shall be
10 developed and implemented no later than December 31, 1992.))

11 (3) A county may operate, or contract with vendors to operate, a
12 detention facility.

13 (4) A county may operate a variety of detention facilities as
14 determined by the county legislative authority, subject to available
15 funds.

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

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

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

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

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

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

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

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

35 (i) The juvenile will likely fail to appear for further
36 proceedings; or

37 (ii) Detention is required to protect the juvenile from himself or
38 herself; or

- 1 (iii) The juvenile is a threat to community safety; or
2 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
3 interfere with the administration of justice; or
4 (v) The juvenile has committed a crime while another case was
5 pending; or
6 (b) The juvenile is a fugitive from justice; or
7 (c) The juvenile's parole has been suspended or modified; or
8 (d) The juvenile is a material witness.

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

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

33 **Sec. 11.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended
34 to read as follows:

35 (1) The secretary, assistant secretary, or the secretary's designee
36 shall issue arrest warrants for juveniles who escape from department
37 residential custody, abscond from parole supervision, or fail to meet
38 conditions of parole. ((These arrest warrants shall))

1 (2) For juveniles who escape from a department residential
2 facility, an arrest warrant authorizes any law enforcement, probation
3 and parole, or peace officer of this state, or any other state where
4 the juvenile is located, to arrest the juvenile and to place the
5 juvenile in physical custody pending the juvenile's return to
6 confinement ((in a state juvenile rehabilitation facility)).

7 (3) For juveniles who abscond from parole supervision or fail to
8 meet a condition of parole, an arrest warrant authorizes any law
9 enforcement, probation and parole, or peace officer of this state, or
10 any other state where the juvenile is located, to arrest the juvenile
11 and to place the juvenile in physical custody pending action by the
12 department under RCW 13.40.210.

13 **Sec. 12.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to read
14 as follows:

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

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

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

26 ~~(2) ((Notice of the detention hearing, stating the time, place, and~~
27 ~~purpose of the hearing, and stating the right to counsel, shall be~~
28 ~~given to the parent, guardian, or custodian if such person can be found~~
29 ~~and shall also be given to the juvenile if over twelve years of age))~~

30 (a) The court shall provide a juvenile notice of the detention hearing
31 under this section. The notice shall include: (i) The date, time,
32 place, and purpose of the hearing; and (ii) all rights and
33 responsibilities of the juvenile at the detention hearing as provided
34 in this chapter.

35 (b) The court shall provide a copy of the notice to each parent or
36 guardian who can be found. The court may include with the notice a
37 requirement that the person or persons notified attend the hearing.
38 Before the hearing a parent or guardian required to attend may make a

1 request to the court to be excused from the hearing. The court may
2 grant the request if attending the hearing would be an undue hardship
3 on the person.

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

7 (4) The court shall, based upon the allegations in the information,
8 determine whether the case is properly before it or whether the case
9 should be (~~treated as a diversion case under RCW 13.40.080~~) diverted
10 as provided in this chapter. If the case is not properly before the
11 court the juvenile shall be ordered released.

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

17 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
18 ~~hereafter amended,~~) the court shall impose (~~the most appropriate of~~
19 ~~the following conditions or, if necessary, any combination~~) one or
20 more of the following conditions:

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

23 (b) Place restrictions on the travel of the juvenile during the
24 period of release;

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

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

29 (e) Require that the juvenile return to detention during specified
30 hours; or

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

33 (7) If the parent, guardian, or custodian of the juvenile in
34 detention is available, the court shall consult with them prior to (~~a~~
35 ~~determination to further detain or release the juvenile or treat the~~
36 ~~case as a diversion case under RCW 13.40.080~~) further detaining or
37 releasing the juvenile or diverting the case as provided in this
38 chapter.

1 (8) A parent or guardian who: (a) Receives notice requiring
2 attendance under subsection (2) of this section; and (b) has not been
3 excused from attending the hearing, may be found in contempt under RCW
4 7.21.030.

5 **Sec. 13.** RCW 13.40.054 and 1995 c 395 s 1 are each amended to read
6 as follows:

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

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

1 criminal cases. Rules of forfeiture and revocation of bonds issued in
2 adult criminal cases shall apply to forfeiture and revocation of
3 probation bonds issued under this chapter except as specifically
4 provided in this subsection.

5 **Sec. 14.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
6 as follows:

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

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

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

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

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

32 RECOMMENDED PROSECUTING STANDARDS
33 FOR CHARGING AND PLEA DISPOSITIONS

34 INTRODUCTION: These standards are intended solely for the guidance
35 of prosecutors in the state of Washington. They are not intended to,
36 do not, and may not be relied upon to create a right or benefit,

1 substantive or procedural, enforceable at law by a party in litigation
2 with the state.

3 Evidentiary sufficiency.

4 (1) Decision not to prosecute.

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

12 GUIDELINES/COMMENTARY:

13 Examples

14 The following are examples of reasons not to prosecute which could
15 satisfy the standard.

16 (a) Contrary to Legislative Intent - It may be proper to decline to
17 charge where the application of criminal sanctions would be clearly
18 contrary to the intent of the legislature in enacting the particular
19 statute.

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

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

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

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

27 (iv) The statute has not been recently reconsidered by the
28 legislature.

29 This reason is not to be construed as the basis for declining cases
30 because the law in question is unpopular or because it is difficult to
31 enforce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (i) Assault cases where the victim has suffered little or no
35 injury;

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

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

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

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

5 Notification

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

8 (2) Decision to prosecute.

9 STANDARD:

10 Crimes against persons will be filed if sufficient admissible
11 evidence exists, which, when considered with the most plausible,
12 reasonably foreseeable defense that could be raised under the evidence,
13 would justify conviction by a reasonable and objective fact-finder.
14 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
15 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
16 9A.64.020 the prosecutor should avoid prefiling agreements or
17 diversions intended to place the accused in a program of treatment or
18 counseling, so that treatment, if determined to be beneficial, can be
19 proved under ((RCW 13.40.160(5))) section 26 of this act.

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

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

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

29 (3) Selection of Charges/Degree of Charge

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

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

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

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

37 Overcharging includes:

38 (i) Charging a higher degree;

39 (ii) Charging additional counts.

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

7 (4) Police Investigation

8 A prosecuting attorney is dependent upon law enforcement agencies
9 to conduct the necessary factual investigation which must precede the
10 decision to prosecute. The prosecuting attorney shall ensure that a
11 thorough factual investigation has been conducted before a decision to
12 prosecute is made. In ordinary circumstances the investigation should
13 include the following:

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

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

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

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

22 (5) Exceptions

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

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

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

28 (c) The arrest of the suspect is necessary to complete the
29 investigation of the crime.

30 In the event that the exception (~~that to~~) to the standard is
31 applied, the prosecuting attorney shall obtain a commitment from the
32 law enforcement agency involved to complete the investigation in a
33 timely manner. If the subsequent investigation does not produce
34 sufficient evidence to meet the normal charging standard, the complaint
35 should be dismissed.

36 (6) Investigation Techniques

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

39 (a) Polygraph testing;

- 1 (b) Hypnosis;
- 2 (c) Electronic surveillance;
- 3 (d) Use of informants.

4 (7) Prefiling Discussions with Defendant

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

8 (8) Plea dispositions:

9 STANDARD

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

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

18 (i) Evidentiary problems which make conviction of the original
19 charges doubtful;

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

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

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

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

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

29 (vii) The nature and seriousness of the offense or offenses
30 charged;

31 (viii) The probable effect of witnesses.

32 (c) No plea agreement shall be influenced by the race, gender,
33 religion, or creed of the respondent. This includes but is not limited
34 to the prosecutor's decision to utilize such disposition alternatives
35 as "Option B," the special sex offender disposition alternative, the
36 chemical dependency disposition alternative, and manifest injustice.

37 (9) Disposition recommendations:

38 STANDARD

1 The prosecutor may reach an agreement regarding disposition
2 recommendations.

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

5 **Sec. 16.** RCW 13.40.080 and 1996 c 124 s 1 are each amended to read
6 as follows:

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

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

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

19 (b) Restitution limited to the amount of actual loss incurred by
20 the victim. The diversion contract must specify the full amount of
21 restitution due even if the juvenile does not have the means or
22 potential to pay the full amount;

23 ~~((Attendance at up to ten hours of counseling and/or up to~~
24 ~~twenty hours of educational or informational sessions at a community~~
25 ~~agency)) A requirement to attend, at a community agency: (i)
26 Counseling sessions; (ii) educational or informational sessions; or
27 (iii) a combination of counseling and educational or informational
28 sessions. The required attendance shall not exceed one hundred sixty
29 hours. The educational or informational sessions may include sessions
30 relating to respect for self, others, and authority; victim awareness;
31 accountability; self-worth; responsibility; work ethics; good
32 citizenship; and life skills. For purposes of this section, "community
33 agency" may also mean a community-based nonprofit organization, if
34 approved by the diversion unit. The state shall not be liable for
35 costs resulting from the ~~((diversionary))~~ diversion unit exercising the
36 option to permit diversion agreements to mandate attendance at ~~((up to~~
37 ten hours of counseling and/or up to twenty hours of educational or
38 informational)) sessions authorized under this subsection;~~

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

7 (e) Requirements to remain during specified hours at home, school,
8 or work, and restrictions on leaving or entering specified geographical
9 areas.

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

19 (4)(a) A diversion agreement may not exceed (~~(a period of)~~) six
20 months and may (~~(include a period extending)~~) extend beyond the
21 eighteenth birthday of the divertee.

22 (b) If additional time is necessary for the juvenile to complete
23 restitution to the victim, the time period limitations of this
24 subsection may be extended by an additional six months.

25 (c) If the juvenile has not paid the full amount of restitution by
26 the end of the additional six-month period, then the juvenile shall be
27 referred to the juvenile court for entry of an order establishing the
28 amount of restitution still owed to the victim. In this order, the
29 court shall also determine the terms and conditions of the restitution,
30 including a payment plan extending up to ten years if the court
31 determines that the juvenile does not have the means to make full
32 restitution over a shorter period. For the purposes of this subsection
33 (4)(c), the juvenile shall remain under the court's jurisdiction for a
34 maximum term of ten years after the juvenile's eighteenth birthday.
35 The court may not require the juvenile to pay full or partial
36 restitution if the juvenile reasonably satisfies the court that he or
37 she does not have the means to make full or partial restitution and
38 could not reasonably acquire the means to pay the restitution over a
39 ten-year period. The county clerk shall make disbursements to victims

1 named in the order. The restitution to victims named in the order
2 shall be paid prior to any payment for other penalties or monetary
3 assessments. A juvenile under obligation to pay restitution may
4 petition the court for modification of the restitution order.

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

7 (6) Divertees and potential divertees shall be afforded due process
8 in all contacts with a ((~~diversionary~~)) diversion unit regardless of
9 whether the juveniles are accepted for diversion or whether the
10 diversion program is successfully completed. Such due process shall
11 include, but not be limited to, the following:

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

14 (b) Violation of the terms of the agreement shall be the only
15 grounds for termination;

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

18 (i) Written notice of alleged violations of the conditions of the
19 diversion program; and

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

21 (d) The hearing shall be conducted by the juvenile court and shall
22 include:

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

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

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

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

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

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

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

35 (7) The diversion unit shall, subject to available funds, be
36 responsible for providing interpreters when juveniles need interpreters
37 to effectively communicate during diversion unit hearings or
38 negotiations.

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

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

5 (10) The right to counsel shall inure prior to the initial
6 interview for purposes of advising the juvenile as to whether he or she
7 desires to participate in the diversion process or to appear in the
8 juvenile court. The juvenile may be represented by counsel at any
9 critical stage of the diversion process, including intake interviews
10 and termination hearings. The juvenile shall be fully advised at the
11 intake of his or her right to an attorney and of the relevant services
12 an attorney can provide. For the purpose of this section, intake
13 interviews mean all interviews regarding the diversion agreement
14 process.

15 The juvenile shall be advised that a diversion agreement shall
16 constitute a part of the juvenile's criminal history ((as defined by
17 RCW 13.40.020(9))). A signed acknowledgment of such advisement shall
18 be obtained from the juvenile, and the document shall be maintained by
19 the ((diversionary)) diversion unit together with the diversion
20 agreement, and a copy of both documents shall be delivered to the
21 prosecutor if requested by the prosecutor. The supreme court shall
22 promulgate rules setting forth the content of such advisement in simple
23 language.

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

- 27 (a) The fact that a charge or charges were made;
- 28 (b) The fact that a diversion agreement was entered into;
- 29 (c) The juvenile's obligations under such agreement;
- 30 (d) Whether the alleged offender performed his or her obligations
31 under such agreement; and
- 32 (e) The facts of the alleged offense.

33 (12) A ((diversionary)) diversion unit may refuse to enter into a
34 diversion agreement with a juvenile. When a ((diversionary)) diversion
35 unit refuses to enter a diversion agreement with a juvenile, it shall
36 immediately refer such juvenile to the court for action and shall
37 forward to the court the criminal complaint and a detailed statement of
38 its reasons for refusing to enter into a diversion agreement.

1 The ((diversionary)) diversion unit shall ((also)) immediately
2 refer ((the)) a case to the prosecuting attorney for action if ((such))
3 a juvenile violates the terms of the diversion agreement.

4 (13) A ((diversionary)) diversion unit may, in instances where it
5 determines that the act or omission of an act for which a juvenile has
6 been referred to it involved no victim, or where it determines that the
7 juvenile referred to it has no prior criminal history and is alleged to
8 have committed an illegal act involving no threat of or instance of
9 actual physical harm and involving not more than fifty dollars in
10 property loss or damage and that there is no loss outstanding to the
11 person or firm suffering such damage or loss, counsel and release or
12 release such a juvenile without entering into a diversion agreement.
13 A diversion unit's authority to counsel and release a juvenile under
14 this subsection shall include the authority to refer the juvenile to
15 community-based counseling or treatment programs. Any juvenile
16 released under this subsection shall be advised that the act or
17 omission of any act for which he or she had been referred shall
18 constitute a part of the juvenile's criminal history ((as defined by
19 RCW 13.40.020(9))). A signed acknowledgment of such advisement shall
20 be obtained from the juvenile, and the document shall be maintained by
21 the unit, and a copy of the document shall be delivered to the
22 prosecutor if requested by the prosecutor. The supreme court shall
23 promulgate rules setting forth the content of such advisement in simple
24 language. A juvenile determined to be eligible by a ((diversionary))
25 diversion unit for release as provided in this subsection shall retain
26 the same right to counsel and right to have his or her case referred to
27 the court for formal action as any other juvenile referred to the unit.

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

32 (15) If a fine required by a diversion agreement cannot reasonably
33 be paid due to a change of circumstance, the diversion agreement may be
34 modified at the request of the diverttee and with the concurrence of the
35 diversion unit to convert an unpaid fine into community service. The
36 modification of the diversion agreement shall be in writing and signed
37 by the diverttee and the diversion unit. The number of hours of
38 community service in lieu of a monetary penalty shall be converted at
39 the rate of the ((prevailing)) state minimum wage per hour.

1 (16) Fines imposed under this section shall be collected and paid
2 into the county general fund in accordance with procedures established
3 by the juvenile court administrator under RCW 13.04.040 and may be used
4 only for juvenile services. In the expenditure of funds for juvenile
5 services, there shall be a maintenance of effort whereby counties
6 exhaust existing resources before using amounts collected under this
7 section.

8 **Sec. 17.** RCW 13.40.100 and 1979 c 155 s 62 are each amended to
9 read as follows:

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

13 (2) If notice is by summons, the clerk of the court shall issue a
14 summons directed to the juvenile, if the juvenile is twelve or more
15 years of age, and another to the parents, guardian, or custodian, and
16 such other persons as appear to the court to be proper or necessary
17 parties to the proceedings, requiring them to appear personally before
18 the court at the time fixed to hear the petition. Where the custodian
19 is summoned, the parent or guardian or both shall also be served with
20 a summons.

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

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

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

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

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

35 (8) If the person summoned as (~~herein~~) provided in this section
36 fails without reasonable cause to appear and abide the order of the
37 court, the person may be proceeded against as for contempt of court.

1 **Sec. 18.** RCW 13.40.120 and 1981 c 299 s 9 are each amended to read
2 as follows:

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

9 **Sec. 19.** RCW 13.40.125 and 1995 c 395 s 6 are each amended to read
10 as follows:

11 (1) Upon motion at least fourteen days before commencement of
12 trial, the juvenile court has the power, after consulting the
13 juvenile's custodial parent or parents or guardian and with the consent
14 of the juvenile, to continue the case for adjudication for a period not
15 to exceed one year from the date the motion is granted. The court may
16 continue the case for an additional one-year period for good cause.

17 (2) Any juvenile granted a deferral of adjudication under this
18 section shall be placed under community supervision. The court may
19 impose any conditions of supervision that it deems appropriate
20 including posting a probation bond. Payment of restitution, as
21 provided in RCW 13.40.190 shall also be a condition of community
22 supervision under this section.

23 (3) Upon full compliance with conditions of supervision, the court
24 shall dismiss the case with prejudice.

25 (4) If the juvenile fails to comply with the terms of supervision,
26 the court shall enter an order of adjudication and proceed to
27 disposition. The juvenile's lack of compliance shall be determined by
28 the judge upon written motion by the prosecutor or the juvenile's
29 juvenile court community supervision counselor. A parent who signed
30 for a probation bond or deposited cash (~~may~~) shall notify the
31 counselor if the juvenile fails to comply with the bond or conditions
32 of supervision. The counselor shall notify the court and surety. A
33 surety shall notify the court of the juvenile's failure to comply with
34 the probation bond. The state shall bear the burden to prove by a
35 preponderance of the evidence that the juvenile has failed to comply
36 with the terms of community supervision.

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

- 1 (a) To a speedy trial and disposition;
2 (b) To call and confront witnesses; and
3 (c) To a hearing on the record. The adjudicatory hearing shall be
4 limited to a reading of the court's record.
5 (6) A juvenile is not eligible for a deferred adjudication if:
6 (a) The juvenile's current offense is a sex or violent offense;
7 (b) The juvenile's criminal history includes any felony;
8 (c) The juvenile has a prior deferred adjudication; or
9 (d) The juvenile has had more than two diversions.

10 NEW SECTION. Sec. 20. A new section is added to chapter 13.40 RCW
11 to read as follows:

12 (1) A juvenile is eligible for deferred disposition unless he or
13 she:

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

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

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

26 (a) Stipulate to the admissibility of the facts contained in the
27 written police report;

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

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

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

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

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

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

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

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

22 (9) At the conclusion of the period set forth in the order of
23 deferral and upon a finding by the court of full compliance with
24 conditions of supervision, the respondent's conviction shall be vacated
25 and the court shall dismiss the case with prejudice.

26 **Sec. 21.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
27 read as follows:

28 (1) The respondent shall be advised of the allegations in the
29 information and shall be required to plead guilty or not guilty to the
30 allegation(s). The state or the respondent may make preliminary
31 motions up to the time of the plea.

32 (2) If the respondent pleads guilty, the court may proceed with
33 disposition or may continue the case for a dispositional hearing. If
34 the respondent denies guilt, an adjudicatory hearing date shall be set.
35 The court shall provide a copy of the notice to each parent or guardian
36 who can be found. The court may include with the notice a requirement
37 that the person or persons notified attend the hearing. Before the
38 hearing a parent or guardian required to attend may make a request to

1 the court to be excused from the hearing. The court may grant the
2 request if attending the hearing would be an undue hardship on the
3 person.

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

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

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

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

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

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

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

29 (10) A parent or guardian who: (a) Receives notice requiring
30 attendance as provided in this section; and (b) has not been excused
31 from attending the hearing, may be found in contempt under RCW
32 7.21.030.

33 **Sec. 22.** RCW 13.40.135 and 1990 c 3 s 604 are each amended to read
34 as follows:

35 (1) The prosecuting attorney shall file a special allegation of
36 sexual motivation in every juvenile offense other than sex offenses as
37 defined in RCW 9.94A.030(~~(+29+)~~) (33) (a) or (c) when sufficient
38 admissible evidence exists, which, when considered with the most

1 plausible, reasonably consistent defense that could be raised under the
2 evidence, would justify a finding of sexual motivation by a reasonable
3 and objective fact-finder.

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

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

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

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

30 (2) For purposes of disposition:

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

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

34 (c) In no event may a disposition for a violation include
35 confinement.

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

- 1 (a) Consider the facts supporting the allegations of criminal
2 conduct by the respondent;
- 3 (b) Consider information and arguments offered by parties and their
4 counsel;
- 5 (c) Consider any predisposition reports;
- 6 (d) Consult with the respondent's parent, guardian, or custodian on
7 the appropriateness of dispositional options under consideration and
8 afford the respondent and the respondent's parent, guardian, or
9 custodian an opportunity to speak in the respondent's behalf;
- 10 (e) Allow the victim or a representative of the victim and an
11 investigative law enforcement officer to speak;
- 12 (f) Determine the amount of restitution owing to the victim, if
13 any;
- 14 (g) Determine whether the respondent is a serious offender, a
15 middle offender, or a minor or first offender;
- 16 (h) Consider whether or not any of the following mitigating factors
17 exist:
- 18 (i) The respondent's conduct neither caused nor threatened serious
19 bodily injury or the respondent did not contemplate that his or her
20 conduct would cause or threaten serious bodily injury;
- 21 (ii) The respondent acted under strong and immediate provocation;
- 22 (iii) The respondent was suffering from a mental or physical
23 condition that significantly reduced his or her culpability for the
24 offense though failing to establish a defense;
- 25 (iv) Prior to his or her detection, the respondent compensated or
26 made a good faith attempt to compensate the victim for the injury or
27 loss sustained; and
- 28 (v) There has been at least one year between the respondent's
29 current offense and any prior criminal offense;
- 30 (i) Consider whether or not any of the following aggravating
31 factors exist:
- 32 (i) In the commission of the offense, or in flight therefrom, the
33 respondent inflicted or attempted to inflict serious bodily injury to
34 another;
- 35 (ii) The offense was committed in an especially heinous, cruel, or
36 depraved manner;
- 37 (iii) The victim or victims were particularly vulnerable;

1 (iv) The respondent has a recent criminal history or has failed to
2 comply with conditions of a recent dispositional order or diversion
3 agreement;

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

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

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

11 (viii) The respondent is a sex offender eligible for the special
12 sex offender disposition alternative under section 26 of this act and
13 the court finds that a longer disposition is necessary to provide an
14 incentive to comply with the terms of the disposition.

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

17 (a) The sex of the respondent;

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

19 (c) The creed or religion of the respondent or the respondent's
20 family;

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

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

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

28 NEW SECTION. Sec. 24. A new section is added to chapter 13.40 RCW
29 to read as follows:

30 Before entering a disposition order, the court shall make findings
31 regarding appropriate rehabilitative goals for each offender sentenced
32 to confinement in a state institution. In making the findings and
33 establishing the goals, the court shall consider: (1) All information
34 and evidence obtained under RCW 13.40.150; (2) the length of the
35 offender's sentence; (3) the needs of the offender; and (4) the family
36 situation of the offender.

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

3 (1) When the respondent is found to be a serious offender, the
4 court shall ~~((commit))~~ sentence the offender to the department for the
5 standard range ~~((of disposition))~~ for the offense, as indicated in
6 option A of schedule D-3, RCW 13.40.0357 except as provided in
7 subsection~~((s))~~ (5) ~~((and (6)))~~ of this section and sections 26 and 27
8 of this act.

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

15 A disposition outside the standard range shall be determinate and
16 shall be comprised of confinement or community supervision, or a
17 combination thereof. When a judge finds a manifest injustice and
18 imposes a sentence of confinement exceeding thirty days, the court
19 shall sentence the juvenile to a maximum term, and the provisions of
20 ~~((RCW 13.40.030(2)))~~ section 29 of this act shall be used to determine
21 the range. A disposition outside the standard range is appealable
22 under RCW 13.40.230 by the state or the respondent. A disposition
23 within the standard range is not appealable under RCW 13.40.230.

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

1 to determine the range. The court's finding of manifest injustice
2 shall be supported by clear and convincing evidence.

3 Except for disposition of community supervision or a disposition
4 imposed pursuant to (~~subsection (5) of this section~~) sections 26 and
5 27 of this act, a disposition may be appealed as provided in RCW
6 13.40.230 by the state or the respondent. A disposition of community
7 supervision or a disposition imposed pursuant to (~~subsection (5) of~~
8 ~~this section~~) sections 26 and 27 of this act may not be appealed under
9 RCW 13.40.230.

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

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

16 (a) The court shall impose a determinate disposition within the
17 standard range(s) for such offense, as indicated in option A of
18 schedule D-2, RCW 13.40.0357 except as provided in sections 26 and 27
19 of this act and subsection(~~(5)~~) (5) (~~and (6)~~) of this section. If
20 the standard range includes a term of confinement exceeding thirty
21 days, commitment shall be to the department for the standard range of
22 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))) section 29 of this act shall be used to determine the
4 range. The court's finding of manifest injustice shall be supported by
5 clear and convincing 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 not
9 appealable under RCW 13.40.230.

10 (5) (~~When a serious, middle, or minor first offender is found to~~
11 ~~have committed a sex offense, other than a sex offense that is also a~~
12 ~~serious violent offense as defined by RCW 9.94A.030, and has no history~~
13 ~~of a prior sex offense, the court, on its own motion or the motion of~~
14 ~~the state or the respondent, may order an examination to determine~~
15 ~~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 living~~
32 ~~conditions, lifestyle requirements, and monitoring by family members,~~
33 ~~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, and the court may suspend the execution of the
11 disposition and place the offender on community supervision for up to
12 two years. As a condition of the suspended disposition, the court may
13 impose the conditions of community supervision and other conditions,
14 including up to thirty days of confinement and requirements that the
15 offender do any one or more of the following:

16 (b)(i) Devote time to a specific education, employment, or
17 occupation;

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

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

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

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

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

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

1 ~~(viii) Comply with the conditions of any court ordered probation~~
2 ~~bond.~~

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

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

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

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

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

1 ~~(6)~~) RCW 13.40.193 shall govern the disposition of any juvenile
2 adjudicated of possessing a firearm in violation of RCW
3 9.41.040(1)(~~(e)~~) (b)(iii) or any crime in which a special finding is
4 entered that the juvenile was armed with a firearm.

5 ~~(7)~~) (6) Whenever a juvenile offender is entitled to credit for
6 time spent in detention prior to a dispositional order, the
7 dispositional order shall specifically state the number of days of
8 credit for time served.

9 ~~(8)~~) (7) Except as provided for in (~~subsection (4)(b) or (5) of~~
10 ~~this section~~) section 26 or 27 of this act or RCW 13.40.125, the court
11 shall not suspend or defer the imposition or the execution of the
12 disposition.

13 ~~(9)~~) (8) In no case shall the term of confinement imposed by the
14 court at disposition exceed that to which an adult could be subjected
15 for the same offense.

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

18 When a juvenile offender is found to have committed a sex offense,
19 other than a sex offense that is also a serious violent offense as
20 defined by RCW 9.94A.030, and has no history of a prior sex offense,
21 the court, on its own motion or the motion of the state or the
22 respondent, may order an examination to determine whether the
23 respondent is amenable to treatment.

24 The report of the examination shall include at a minimum the
25 following: The respondent's version of the facts and the official
26 version of the facts, the respondent's offense history, an assessment
27 of problems in addition to alleged deviant behaviors, the respondent's
28 social, educational, and employment situation, and other evaluation
29 measures used. The report shall set forth the sources of the
30 evaluator's information.

31 The examiner shall assess and report regarding the respondent's
32 amenability to treatment and relative risk to the community.

33 (1) A proposed treatment plan shall be provided and shall include,
34 at a minimum:

35 (a) Frequency and type of contact between the offender and
36 therapist;

37 (b) Specific issues to be addressed in the treatment and
38 description of planned treatment modalities;

1 (c) Monitoring plans, including any requirements regarding living
2 conditions, lifestyle requirements, and monitoring by family members,
3 legal guardians, or others;

4 (d) Anticipated length of treatment; and

5 (e) Recommended crime-related prohibitions.

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

12 After receipt of reports of the examination, the court shall then
13 consider whether the offender and the community will benefit from use
14 of this special sex offender disposition alternative and consider the
15 victim's opinion whether the offender should receive a treatment
16 disposition under this section. If the court determines that this
17 special sex offender disposition alternative is appropriate, then the
18 court shall impose a determinate disposition within the standard range
19 for the offense, or if the court concludes, and enters reasons for its
20 conclusion that a disposition within the standard range would
21 effectuate a manifest injustice, the court shall impose a disposition
22 outside the standard range pursuant to RCW 13.40.160(1).

23 For either a standard range disposition or a disposition that
24 reflects a finding of manifest injustice, the court may suspend the
25 execution of the disposition and place the offender on community
26 supervision for up to two years.

27 (2) As a condition of the suspended disposition, the court may
28 impose the conditions of community supervision and other conditions,
29 including up to thirty days of confinement and requirements that the
30 offender do any one or more of the following:

31 (a) Devote time to a specific education, employment, or occupation;

32 (b) Undergo available outpatient sex offender treatment for up to
33 two years, or inpatient sex offender treatment not to exceed the
34 standard range of confinement for that offense. A community mental
35 health center may not be used for such treatment unless it has an
36 appropriate program designed for sex offender treatment. The
37 respondent shall not change sex offender treatment providers or
38 treatment conditions without first notifying the prosecutor, the
39 probation counselor, and the court, and shall not change providers

1 without court approval after a hearing if the prosecutor or probation
2 counselor object to the change;

3 (c) Remain within prescribed geographical boundaries and notify the
4 court or the probation counselor prior to any change in the offender's
5 address, educational program, or employment;

6 (d) Report to the prosecutor and the probation counselor prior to
7 any change in a sex offender treatment provider. This change shall
8 have prior approval by the court;

9 (e) Report as directed to the court and a probation counselor;

10 (f) Pay all court-ordered legal financial obligations, perform
11 community service, or any combination thereof;

12 (g) Make restitution to the victim for the cost of any counseling
13 reasonably related to the offense; or

14 (h) Comply with the conditions of any court-ordered probation bond.

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

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

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

37 If the offender violates any condition of the disposition or the
38 court finds that the respondent is failing to make satisfactory
39 progress in treatment, the court may revoke the suspension and order

1 execution of the disposition or the court may impose a penalty of up to
2 thirty days' confinement for violating conditions of the disposition.
3 The court may order both execution of the disposition and up to thirty
4 days' confinement for the violation of the conditions of the
5 disposition. The court shall give credit for any confinement time
6 previously served if that confinement was for the offense for which the
7 suspension is being revoked.

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

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

15 (1) A court may impose a chemical dependency disposition
16 alternative. The court shall impose the standard range for the
17 offense and suspend execution of its imposition. As a condition of the
18 suspension, the court shall require the offender to undergo available
19 inpatient or outpatient chemical dependency treatment at a chemical
20 dependency treatment facility approved under chapter 70.96A RCW. The
21 sum of the time spent in confinement and inpatient treatment shall not
22 exceed one hundred days and the court may impose any term of community
23 supervision including:

- 24 (a) Confinement not to exceed thirty days;
- 25 (b) Community service not to exceed one hundred fifty hours;
- 26 (c) Payment of legal financial obligations; and
- 27 (d) Payment of restitution.

28 (2) An offender is eligible for the chemical dependency disposition
29 alternative if:

30 (a) The offense for which the person was convicted was not a sex
31 offense;

32 (b) The offense is at or below seriousness level VIII as set forth
33 in RCW 9.94A.320;

34 (c) The court enters a finding that the offense was committed in
35 furtherance of, or as a result of, the chemical dependency; and

36 (d) The offender has not received the alternative within three
37 years.

1 (3) If the supporting documentation or evidence indicates an
2 offender may be chemically dependent, the court on its own motion or
3 that of any party, may order that an offender be examined by a chemical
4 dependency counselor from a chemical dependency treatment facility to
5 determine whether the offender is chemically dependent and the
6 likelihood of treatment success. The parties may stipulate to
7 selection of a counselor or facility and, if no stipulation is made the
8 court shall select the counselor or facility.

9 (4) The examination shall include, but not be limited to,
10 consideration of:

- 11 (a) The assessment and treatment history of the offender;
- 12 (b) The offender's social, educational, and employment history;
- 13 (c) The official and offender's version of the offense;
- 14 (d) The appropriate nature of proposed treatment;
- 15 (e) An appropriate length of time for the treatment;
- 16 (f) Appropriate living conditions for the offender at any point;
- 17 (g) Necessary crime-related prohibitions;
- 18 (h) Monitoring plans and requirements; and
- 19 (i) The likelihood of success of the proposed treatment.

20 (5) Upon receipt of the report of the examination, the court shall
21 determine whether the offender should be ordered into treatment. The
22 court may, upon receipt of the report, order a second examination of
23 the offender by a different counselor or facility. The state and
24 offender shall not be responsible for the cost of the second
25 examination. Before ordering the offender into treatment, the court
26 shall offer the parents of the offender the opportunity to comment on
27 the proposed treatment and shall advise the parents of services and
28 processes available to reconcile or preserve families. In making its
29 determination, the court shall consider the:

- 30 (a) Risk to the community;
- 31 (b) Likelihood of successful treatment; and
- 32 (c) Impact on any victim of the offense.

33 (6) If the court determines the offender should receive the
34 alternative, the court shall order the offender into treatment. If the
35 standard range for the offense exceeds thirty days, the court shall
36 impose the sentence and suspend its execution. The court shall impose
37 community supervision for a period of up to two years, including
38 monitoring requirements of any aftercare program. The court shall
39 require, as a condition of treatment, that regular reports on the

1 success of treatment of the offender be submitted to the court and may
2 require treatment review hearings at its discretion.

3 (7) If at any time during treatment, the court determines the
4 offender is failing to make satisfactory progress in his or her
5 treatment program, the court may suspend treatment and impose
6 confinement of thirty days, with credit for confinement time already
7 served. When the offender has completed the confinement or, upon an
8 earlier determination by the court that treatment should be resumed,
9 the offender shall be returned to treatment for the remainder of the
10 time available under the alternative.

11 (8) Upon completion of treatment, the treatment provider shall
12 provide the court with a report indicating whether treatment has been
13 successful. If the court determines the treatment was successful, the
14 court shall impose community supervision for a period of up to one
15 year. If the court determines the treatment was not successful, the
16 court shall impose confinement for any time remaining under the
17 standard range.

18 (9) The court may, not later than the end of treatment or
19 confinement, whichever occurs later refer the offender to:

20 (a) The department for purposes of determination of whether the
21 offender meets the criteria of a child in need of services under
22 chapter 13.32A RCW; or

23 (b) The county designated chemical dependency specialist to
24 determine whether a petition for commitment shall be filed under
25 chapter 70.96A RCW.

26 NEW SECTION. **Sec. 28.** The University of Washington shall develop
27 standards for measuring effectiveness of treatment programs established
28 under section 27 of this act. The standards shall be developed and
29 presented to the governor and legislature not later than January 1,
30 1998. The standards shall include methods for measuring success
31 factors following treatment. Success factors shall include, but need
32 not be limited to, continued use of alcohol or controlled substances,
33 arrests, violations of terms of community supervision, and convictions
34 for subsequent offenses.

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

1 When the court finds a manifest injustice, imposes a sentence of
2 confinement exceeding thirty days, and sets the maximum term, the
3 department shall determine the range subject to the following
4 limitations:

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

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

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

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

16 (1) Any term of confinement imposed for an offense which exceeds
17 thirty days shall be served under the supervision of the department.
18 The department may operate, or contract with vendors to operate,
19 facilities for juveniles committed to the department. If the period of
20 confinement imposed for more than one offense exceeds thirty days but
21 the term imposed for each offense is less than thirty days, the
22 confinement may, in the discretion of the court, be served in a
23 juvenile facility operated by or pursuant to a contract with the state
24 or a county.

25 (2) Whenever a juvenile is confined in a detention facility or is
26 committed to the department, the court may not directly order a
27 juvenile into a particular county or state facility. The juvenile
28 court administrator and the secretary, assistant secretary, or the
29 secretary's designee, as appropriate, has the sole discretion to
30 determine in which facility a juvenile should be confined or committed.
31 (~~The counties may operate a variety of detention facilities as~~
32 ~~determined by the county legislative authority subject to available~~
33 ~~funds.~~)

34 **Sec. 31.** RCW 13.40.190 and 1996 c 124 s 2 are each amended to read
35 as follows:

36 (1) In its dispositional order, the court shall require the
37 respondent to make restitution to any persons who have suffered loss or

1 damage as a result of the offense committed by the respondent. In
2 addition, restitution may be ordered for loss or damage if the offender
3 pleads guilty to a lesser offense or fewer offenses and agrees with the
4 prosecutor's recommendation that the offender be required to pay
5 restitution to a victim of an offense or offenses (~~((which, pursuant~~
6 ~~to))~~ that, under a plea agreement, are not prosecuted. The payment of
7 restitution shall be in addition to any punishment (~~((which))~~) that is
8 imposed (~~((pursuant to))~~) under the other provisions of this chapter.
9 The court may determine the amount, terms, and conditions of the
10 restitution including a payment plan extending up to ten years if the
11 court determines that the respondent does not have the means to make
12 full restitution over a shorter period.

13 (a) Restitution (~~((may include the costs of counseling reasonably~~
14 ~~related to the offense))~~) shall be limited to: (i) Easily ascertainable
15 damages for injury to property; (ii) actual expenses incurred for
16 medical treatment for physical injury to persons; (iii) lost wages
17 resulting from physical injury; and (iv) costs of the victim's
18 counseling reasonably related to the offense.

19 (b) Restitution shall not include reimbursement for: (i) Mental
20 anguish; (ii) pain and suffering; or (iii) other intangible losses.

21 If the respondent participated in the crime with another person or
22 other persons, all (~~((such))~~) the participants (~~((shall be))~~) are jointly
23 and severally responsible for the payment of restitution. For the
24 purposes of this section, the respondent shall remain under the court's
25 jurisdiction for a maximum term of ten years after the respondent's
26 eighteenth birthday. The court may not require the respondent to pay
27 full or partial restitution if the respondent reasonably satisfies the
28 court that he or she does not have the means to make full or partial
29 restitution and could not reasonably acquire the means to pay (~~((such))~~)
30 the restitution over a ten-year period.

31 (2) Regardless of the provisions of subsection (1) of this section,
32 the court shall order restitution in all cases where the victim is
33 entitled to benefits under the crime victims' compensation act, chapter
34 7.68 RCW. If the court does not order restitution and the victim of
35 the crime has been determined to be entitled to benefits under the
36 crime victims' compensation act, the department of labor and
37 industries, as administrator of the crime victims' compensation
38 program, may petition the court within one year of entry of the
39 disposition order for entry of a restitution order. Upon receipt of a

1 petition from the department of labor and industries, the court shall
2 hold a restitution hearing and shall enter a restitution order.

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

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

9 (5) Nothing in this chapter shall limit or replace civil remedies
10 or defenses available to the victim or offender.

11 **Sec. 32.** RCW 13.40.193 and 1994 sp.s. c 7 s 525 are each amended
12 to read as follows:

13 (1) If a respondent is found to have been in possession of a
14 firearm in violation of RCW 9.41.040(1)((+e)) (b)(iii), the court
15 shall impose a determinate disposition of ten days of confinement and
16 up to twelve months of community supervision. If the offender's
17 standard range of disposition for the offense as indicated in RCW
18 13.40.0357 is more than thirty days of confinement, the court shall
19 commit the offender to the department for the standard range
20 disposition. The offender shall not be released until the offender has
21 served a minimum of ten days in confinement.

22 (2) If the court finds that the respondent or an accomplice was
23 armed with a firearm, the court shall determine the standard range
24 disposition for the offense pursuant to RCW 13.40.160. Ninety days of
25 confinement shall be added to the entire standard range disposition of
26 confinement if the offender or an accomplice was armed with a firearm
27 when the offender committed: (a) Any violent offense; or (b) escape in
28 the first degree; burglary in the second degree; theft of livestock in
29 the first or second degree; or any felony drug offense. If the
30 offender or an accomplice was armed with a firearm and the offender is
31 being adjudicated for an anticipatory felony offense under chapter
32 9A.28 RCW to commit one of the offenses listed in this subsection,
33 ninety days shall be added to the entire standard range disposition of
34 confinement. The ninety days shall be imposed regardless of the
35 ~~((offense's juvenile disposition))~~ offense category as designated in
36 RCW 13.40.0357. The department shall not release the offender until
37 the offender has served a minimum of ninety days in confinement, unless

1 the juvenile is committed to and successfully completes the juvenile
2 offender basic training camp disposition option.

3 (3) Option B of schedule D-2, RCW 13.40.0357, shall not be
4 available for middle offenders who receive a disposition under this
5 section. When a disposition under this section would effectuate a
6 manifest injustice, the court may impose another disposition. When a
7 judge finds a manifest injustice and imposes a disposition of
8 confinement exceeding thirty days, the court shall commit the juvenile
9 to a maximum term, and the provisions of ((RCW 13.40.030(2))) section
10 29 of this act shall be used to determine the range. When a judge
11 finds a manifest injustice and imposes a disposition of confinement
12 less than thirty days, the disposition shall be comprised of
13 confinement or community supervision or both.

14 (4) Any term of confinement ordered pursuant to this section may
15 run concurrently to any term of confinement imposed in the same
16 disposition for other offenses.

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

19 A juvenile shall be referred to the department for determination of
20 whether:

21 (1) He or she is a child in need of services as defined in chapter
22 13.32A RCW; or

23 (2) A petition should be filed under chapter 13.34 RCW, upon any of
24 the following circumstances:

25 (a) The conviction of a juvenile for three misdemeanors or gross
26 misdemeanors or a combination of three misdemeanors and gross
27 misdemeanors;

28 (b) The conviction of two felonies;

29 (c) A felony committed when he or she was under fifteen years of
30 age; or

31 (d) A recommendation of a county probation officer who exercised
32 supervisory authority over the juvenile.

33 The referral shall take place before the juvenile's release from
34 confinement or termination of probation, whichever is later, and all
35 information about the juvenile that is in the possession of the
36 government agency that confined the juvenile shall be forwarded to the
37 department except as prohibited by federal law.

1 **Sec. 34.** RCW 13.40.210 and 1994 sp.s. c 77 s 527 are each amended
2 to read as follows:

3 ~~(1) ((The secretary shall, except in the case of a juvenile~~
4 ~~committed by a court to a term of confinement in a state institution~~
5 ~~outside the appropriate standard range for the offense(s) for which the~~
6 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~
7 ~~set a release or discharge date for each juvenile committed to its~~
8 ~~custody. The release or discharge date shall be within the prescribed~~
9 ~~range to which a juvenile has been committed except as provided in RCW~~
10 ~~13.40.320 concerning offenders the department determines are eligible~~
11 ~~for the juvenile offender basic training camp program. Such dates~~
12 ~~shall be determined prior to the expiration of sixty percent of a~~
13 ~~juvenile's minimum term of confinement included within the prescribed~~
14 ~~range to which the juvenile has been committed.))~~ (a) When a juvenile
15 is committed to a term of confinement in a state institution, the
16 secretary shall review the sentencing court's findings and order of the
17 rehabilitative goals to be achieved by the juvenile during the term of
18 confinement. The department shall provide rehabilitative resources,
19 including but not limited to education, vocational training, substance
20 abuse treatment, and counseling, to assist the juvenile in achieving
21 these rehabilitative goals.

22 (b) For juveniles committed to a range for which the minimum is one
23 hundred eighty days or longer, the department shall prepare a written
24 progress report after expiration of no less than fifty and no more than
25 sixty percent of the minimum of the juvenile's commitment range. The
26 progress report shall contain an evaluation of the juvenile's behavior
27 and performance during commitment and shall specifically describe the
28 juvenile's progress toward achieving the designated rehabilitative
29 goals. The progress report shall be updated before the juvenile is
30 released or discharged.

31 (c) The secretary, after considering the progress report, shall
32 determine a release or discharge date for the juvenile within the
33 commitment range. If a substantial change in the juvenile's behavior
34 occurs after the setting of the release or discharge date, the
35 secretary may change the release or discharge date based upon an
36 updated progress report.

37 (d) For juveniles committed to a range for which the minimum is
38 less than one hundred eighty days, the secretary shall set a release or
39 discharge date within the commitment range. The release or discharge

1 date shall be set before the expiration of seventy-five percent of the
2 minimum of the juvenile's commitment range. The department shall
3 prepare a written progress report containing the information specified
4 in (b) of this subsection before the juvenile is released or
5 discharged.

6 (e) Nothing in this section entitles a juvenile to release prior to
7 the expiration of the maximum term of confinement imposed by the court.

8 (f) The department shall establish by rule standards of good
9 behavior, good performance, and progress toward rehabilitative goals.

10 (g) The secretary shall release any juvenile committed to the
11 custody of the department within four calendar days prior to the
12 juvenile's release date or on the release date set under this chapter.
13 Days spent in the custody of the department shall be tolled by any
14 period of time during which a juvenile has absented himself or herself
15 from the department's supervision without the prior approval of the
16 secretary or the secretary's designee.

17 (2) The secretary shall monitor the average daily population of the
18 state's juvenile residential facilities. When the secretary concludes
19 that in-residence population of residential facilities exceeds one
20 hundred five percent of the rated bed capacity specified in statute, or
21 in absence of such specification, as specified by the department in
22 rule, the secretary may recommend reductions to the governor. On
23 certification by the governor that the recommended reductions are
24 necessary, the secretary has authority to administratively release a
25 sufficient number of offenders to reduce in-residence population to one
26 hundred percent of rated bed capacity. The secretary shall release
27 those offenders who have served the greatest proportion of their
28 sentence. However, the secretary may deny release in a particular case
29 at the request of an offender, or if the secretary finds that there is
30 no responsible custodian, as determined by the department, to whom to
31 release the offender, or if the release of the offender would pose a
32 clear danger to society. The department shall notify the committing
33 court of the release at the time of release if any such early releases
34 have occurred as a result of excessive in-residence population. In no
35 event shall an offender adjudicated of a violent offense be granted
36 release under the provisions of this subsection.

37 A parole program is mandatory for offenders released under this
38 subsection.

1 (3)(a) Following the juvenile's release under subsection (1) of
2 this section, the secretary may require the juvenile to comply with a
3 program of parole to be administered by the department in his or her
4 community which shall last no longer than eighteen months, except that
5 in the case of a juvenile sentenced for rape in the first or second
6 degree, rape of a child in the first or second degree, child
7 molestation in the first degree, or indecent liberties with forcible
8 compulsion, the period of parole shall be twenty-four months and, in
9 the discretion of the secretary, may be up to thirty-six months when
10 the secretary finds that an additional period of parole is necessary
11 and appropriate in the interests of public safety or to meet the
12 ongoing needs of the juvenile. (~~(A parole program is mandatory for~~
13 ~~offenders released under subsection (2) of this section.)~~)

14 (b) The secretary shall, for the period of parole, facilitate the
15 juvenile's reintegration into his or her community and to further this
16 goal shall require the juvenile to refrain from possessing a firearm or
17 using a deadly weapon and refrain from committing new offenses and may
18 require the juvenile to: ~~((a))~~ (i) Undergo available medical ~~((or)),~~
19 psychiatric ~~((treatment)),~~ drug and alcohol, mental health, and other
20 offense-related treatment services; ~~((b))~~ (ii) report as directed to
21 a parole officer and/or designee; ~~((c))~~ (iii) pursue a course of
22 study ~~((or)),~~ vocational training, or employment; ~~((and (d))~~ (iv)
23 notify the parole officer of the current address where he or she
24 resides; (v) be present at a particular address during specified hours;
25 (vi) remain within prescribed geographical boundaries ~~((and notify the~~
26 ~~department of any change in his or her address))~~; (vii) submit to
27 electronic monitoring; (viii) refrain from using illegal drugs and
28 alcohol, and submit to random urinalysis when requested by the assigned
29 parole officer; and (ix) refrain from contact with specific individuals
30 or a specified class of individuals.

31 (c) The secretary may further require juvenile offenders who are
32 placed on parole to participate in an intensive supervision program.
33 The decision to place an offender in an intensive supervision program
34 shall be based on a risk assessment of the juvenile conducted by the
35 department. Offenders participating in an intensive supervision
36 program shall be required to comply with all terms and conditions
37 listed in (b) of this subsection and shall also be required to comply
38 with the following additional terms and conditions: (i) Obey all laws
39 and refrain from any conduct that threatens public safety; (ii) report

1 at least once a week to an assigned community case manager; and (iii)
2 meet all other requirements imposed by the community case manager
3 related to participating in the intensive supervision program. As a
4 part of the intensive supervision program, the secretary may require
5 day reporting.

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

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

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

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

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

4 NEW SECTION. **Sec. 35.** The legislature finds the present system of
5 transitioning youths from residential status to parole status to
6 discharge is insufficient to provide adequate rehabilitation and public
7 safety in many instances. The legislature further finds that an
8 intensive supervision program based on the following principles holds
9 much promise for positively impacting recidivism rates for juvenile
10 offenders: (1) Progressive increase in responsibility and freedom in
11 the community; (2) facilitation of youths' interaction and involvement
12 with their communities; (3) involvement of both the youth and targeted
13 community support systems such as family, peers, schools, and
14 employers, on the qualities needed for constructive interaction and
15 successful adjustment with the community; (4) development of new
16 resources, supports, and opportunities where necessary; and (5) ongoing
17 monitoring and testing of youth on their ability to abide by community
18 rules and standards.

19 The legislature intends for the department to create an intensive
20 supervision program based on the principles stated in this section that
21 will be available to targeted juvenile offenders placed on parole.

22 NEW SECTION. **Sec. 36.** A new section is added to chapter 13.40 RCW
23 to read as follows:

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

27 (a) A process of case management involving coordinated and
28 comprehensive planning, information exchange, continuity and
29 consistency, service provision and referral, and monitoring. The
30 components of the case management system shall include assessment,
31 classification, and selection criteria; individual case planning that
32 incorporates a family and community perspective; a mixture of intensive
33 surveillance and services; a balance of incentives and graduated
34 consequences coupled with the imposition of realistic, enforceable
35 conditions; and service brokerage with community resources and linkage
36 with social networks;

1 (b) Administration of transition services that transcend
2 traditional agency boundaries and professional interests and include
3 courts, institutions, aftercare, education, social and mental health
4 services, substance abuse treatment, and employment and vocational
5 training; and

6 (c) A plan for information management and program evaluation that
7 maintains close oversight over implementation and quality control, and
8 determines the effectiveness of both the processes and outcomes of the
9 program.

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

14 **Sec. 37.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
15 read as follows:

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

19 An appeal under this section shall be heard solely upon the record
20 that was before the disposition court. No written briefs may be
21 required, and the appeal shall be heard within thirty days following
22 the date of sentencing and a decision rendered within fifteen days
23 following the argument. The supreme court shall promulgate any
24 necessary rules to effectuate the purposes of this section.

25 (2) To uphold a disposition outside the standard range, or which
26 imposes confinement for a minor or first offender, the court of appeals
27 must find (a) that the reasons supplied by the disposition judge are
28 supported by the record which was before the judge and that those
29 reasons clearly and convincingly support the conclusion that a
30 disposition within the range, or nonconfinement for a minor or first
31 offender, would constitute a manifest injustice, and (b) that the
32 sentence imposed was neither clearly excessive nor clearly too lenient.

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

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

4 (5) Pending appeal, a respondent may not be committed or detained
5 for a period of time in excess of the standard range for the offense(s)
6 committed or sixty days, whichever is longer. The disposition court
7 may impose conditions on release pending appeal as provided in RCW
8 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of
9 commitment or detention specified in this subsection, the court may
10 also impose such conditions on the respondent's release pending
11 disposition of the appeal.

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

14 **Sec. 38.** RCW 13.40.265 and 1994 sp.s. c 7 s 435 are each amended
15 to read as follows:

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

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

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

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

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

9 NEW SECTION. **Sec. 39.** A new section is added to chapter 13.40 RCW
10 to read as follows:

11 (1) This section applies to children who are under the age of
12 twelve at the time they are alleged to have committed an offense.

13 (a) In the event a prosecuting attorney is unable to file or elects
14 not to file a criminal charge against a juvenile as a result of the
15 provisions of RCW 9A.04.050, the prosecutor shall forward the name of
16 the juvenile and the alleged facts of the incident to the department.

17 (b) In the event a law enforcement officer investigating an alleged
18 offense has reasonable cause to believe the offense was committed by a
19 juvenile under the age of eight, the officer, or the law enforcement
20 agency for which the officer works, shall forward the name of the
21 juvenile and the alleged facts of the incident to the department.

22 (2) The department shall, upon receipt of the information under
23 this section, investigate the circumstances of the juvenile to
24 determine whether it is appropriate for the department to file a child
25 in need of services petition under chapter 13.32A RCW or a dependency
26 proceeding under chapter 13.34 RCW.

27 (3) The department shall prepare a biennial report to the governor
28 and the legislature on the referrals made under this section. The
29 report shall include:

30 (a) The number of referrals received by the department;

31 (b) The number of petitions filed or proceedings initiated as a
32 result of the referrals; and

33 (c) The outcome of the petitions or proceedings.

34 NEW SECTION. **Sec. 40.** A new section is added to chapter 2.56 RCW
35 to read as follows:

36 Each year, the administrator shall prepare a report on contempt
37 findings under RCW 13.40.050 and 13.40.130. The report shall be

1 presented to the governor and legislature not later than December 1st.
2 The report shall include, but not be limited to: (1) The number of
3 individuals found in contempt; (2) whether any of the persons found in
4 contempt have been previously found in contempt; (3) aggregate data on
5 the type of sanctions imposed for contempt under RCW 13.40.050 and
6 13.40.130; and (4) how often juveniles in the proceedings in which a
7 contempt was found, or a sibling of the juveniles when known, were
8 brought before the court on additional offenses or proceedings under
9 chapter 13.32A or 13.34 RCW.

10 **Sec. 41.** RCW 5.60.060 and 1996 c 156 s 1 are each amended to read
11 as follows:

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

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

32 (b) No parent or guardian of a minor child arrested on a criminal
33 charge may be examined as to a communication between the child and his
34 or her attorney if the communication was made in the presence of the
35 parent or guardian. This privilege does not extend to communications
36 made prior to the arrest.

37 (3) A member of the clergy or a priest shall not, without the
38 consent of a person making the confession, be examined as to any

1 confession made to him or her in his or her professional character, in
2 the course of discipline enjoined by the church to which he or she
3 belongs.

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

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

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

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

21 (6)(a) A peer support group counselor shall not, without consent of
22 the law enforcement officer making the communication, be compelled to
23 testify about any communication made to the counselor by the officer
24 while receiving counseling. The counselor must be designated as such
25 by the sheriff, police chief, or chief of the Washington state patrol,
26 prior to the incident that results in counseling. The privilege only
27 applies when the communication was made to the counselor while acting
28 in his or her capacity as a peer support group counselor. The
29 privilege does not apply if the counselor was an initial responding
30 officer, a witness, or a party to the incident which prompted the
31 delivery of peer support group counseling services to the law
32 enforcement officer.

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

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

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

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

9 (a) For purposes of this section, "sexual assault advocate" means
10 the employee or volunteer from a rape crisis center, victim assistance
11 unit, program, or association, that provides information, medical or
12 legal advocacy, counseling, or support to victims of sexual assault,
13 who is designated by the victim to accompany the victim to the hospital
14 or other health care facility and to proceedings concerning the alleged
15 assault, including police and prosecution interviews and court
16 proceedings.

17 (b) A sexual assault advocate may disclose a confidential
18 communication without the consent of the victim if failure to disclose
19 is likely to result in a clear, imminent risk of serious physical
20 injury or death of the victim or another person. Any sexual assault
21 advocate participating in good faith in the disclosing of records and
22 communications under this section shall have immunity from any
23 liability, civil, criminal, or otherwise, that might result from the
24 action. In any proceeding, civil or criminal, arising out of a
25 disclosure under this section, the good faith of the sexual assault
26 advocate who disclosed the confidential communication shall be
27 presumed.

28 **Sec. 42.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are
29 each reenacted and amended to read as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

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

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

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

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

11 (5) "Community placement" means that period during which the
12 offender is subject to the conditions of community custody and/or
13 postrelease supervision, which begins either upon completion of the
14 term of confinement (postrelease supervision) or at such time as the
15 offender is transferred to community custody in lieu of earned early
16 release. Community placement may consist of entirely community
17 custody, entirely postrelease supervision, or a combination of the two.

18 (6) "Community service" means compulsory service, without
19 compensation, performed for the benefit of the community by the
20 offender.

21 (7) "Community supervision" means a period of time during which a
22 convicted offender is subject to crime-related prohibitions and other
23 sentence conditions imposed by a court pursuant to this chapter or RCW
24 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
25 may include crime-related prohibitions and other conditions imposed
26 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
27 for out-of-state supervision of parolees and probationers, RCW
28 9.95.270, community supervision is the functional equivalent of
29 probation and should be considered the same as probation by other
30 states.

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

33 (9) "Conviction" means an adjudication of guilt pursuant to Titles
34 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
35 acceptance of a plea of guilty.

36 (10) "Court-ordered legal financial obligation" means a sum of
37 money that is ordered by a superior court of the state of Washington
38 for legal financial obligations which may include restitution to the
39 victim, statutorily imposed crime victims' compensation fees as

1 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
2 drug funds, court-appointed attorneys' fees, and costs of defense,
3 fines, and any other financial obligation that is assessed to the
4 offender as a result of a felony conviction. Upon conviction for
5 vehicular assault while under the influence of intoxicating liquor or
6 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
7 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
8 legal financial obligations may also include payment to a public agency
9 of the expense of an emergency response to the incident resulting in
10 the conviction, subject to the provisions in RCW 38.52.430.

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

17 (12)(a) "Criminal history" means the list of a defendant's prior
18 convictions, whether in this state, in federal court, or elsewhere.
19 The history shall include, where known, for each conviction (i) whether
20 the defendant has been placed on probation and the length and terms
21 thereof; and (ii) whether the defendant has been incarcerated and the
22 length of incarceration.

23 (b) "Criminal history" shall always include juvenile convictions
24 for sex offenses and serious violent offenses and shall also include a
25 defendant's other prior convictions in juvenile court if: (i) The
26 conviction was for an offense which is a felony or a serious traffic
27 offense and is criminal history as defined in RCW 13.40.020(~~(+9)~~);
28 (ii) the defendant was fifteen years of age or older at the time the
29 offense was committed; and (iii) with respect to prior juvenile class
30 B and C felonies or serious traffic offenses, the defendant was less
31 than twenty-three years of age at the time the offense for which he or
32 she is being sentenced was committed.

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

37 (14) "Day reporting" means a program of enhanced supervision
38 designed to monitor the defendant's daily activities and compliance
39 with sentence conditions, and in which the defendant is required to

1 report daily to a specific location designated by the department or the
2 sentencing judge.

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

4 (16) "Determinate sentence" means a sentence that states with
5 exactitude the number of actual years, months, or days of total
6 confinement, of partial confinement, of community supervision, the
7 number of actual hours or days of community service work, or dollars or
8 terms of a legal financial obligation. The fact that an offender
9 through "earned early release" can reduce the actual period of
10 confinement shall not affect the classification of the sentence as a
11 determinate sentence.

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

24 (18) "Drug offense" means:

25 (a) Any felony violation of chapter 69.50 RCW except possession of
26 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
27 controlled substance (RCW 69.50.403);

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

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

34 (19) "Escape" means:

35 (a) Escape in the first degree (RCW 9A.76.110), escape in the
36 second degree (RCW 9A.76.120), willful failure to return from furlough
37 (RCW 72.66.060), willful failure to return from work release (RCW
38 72.65.070), or willful failure to be available for supervision by the
39 department while in community custody (RCW 72.09.310); 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 an escape
3 under (a) of this subsection.

4 (20) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
6 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
7 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

27 (b) For purposes of (a) of this subsection, a juvenile adjudication
28 for an offense committed before the age of fifteen years is not a
29 previous felony conviction except for adjudications of sex offenses and
30 serious violent offenses.

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

34 (a) Any felony defined under any law as a class A felony or
35 criminal solicitation of or criminal conspiracy to commit a class A
36 felony;

37 (b) Assault in the second degree;

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

39 (d) Child molestation in the second degree;

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

1 a substantial portion of each day with the balance of the day spent in
2 the community. Partial confinement includes work release, home
3 detention, work crew, and a combination of work crew and home detention
4 as defined in this section.

5 (27) "Persistent offender" is an offender who:

6 (a)(i) Has been convicted in this state of any felony considered a
7 most serious offense; and

8 (ii) Has, before the commission of the offense under (a) of this
9 subsection, been convicted as an offender on at least two separate
10 occasions, whether in this state or elsewhere, of felonies that under
11 the laws of this state would be considered most serious offenses and
12 would be included in the offender score under RCW 9.94A.360(~~(+ provided~~
13 ~~that)~~). Of the two or more previous convictions, at least one
14 conviction must have occurred before the commission of any of the other
15 most serious offenses for which the offender was previously convicted;
16 or

17 (b)(i) Has been convicted of (A) rape in the first degree, rape in
18 the second degree, or indecent liberties by forcible compulsion; (B)
19 murder in the first degree, murder in the second degree, kidnapping in
20 the first degree, kidnapping in the second degree, assault in the first
21 degree, assault in the second degree, or burglary in the first degree,
22 with a finding of sexual motivation; or (C) an attempt to commit any
23 crime listed in this subsection (27)(b)(i); and

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

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

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

34 (30) "Serious traffic offense" means:

35 (a) Driving while under the influence of intoxicating liquor or any
36 drug (RCW 46.61.502), actual physical control while under the influence
37 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
38 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
39 or

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

4 (31) "Serious violent offense" is a subcategory of violent offense
5 and means:

6 (a) Murder in the first degree, homicide by abuse, murder in the
7 second degree, assault in the first degree, kidnapping in the first
8 degree, or rape in the first degree, assault of a child in the first
9 degree, or an attempt, criminal solicitation, or criminal conspiracy to
10 commit one of these felonies; or

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

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

16 (33) "Sex offense" means:

17 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
18 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
19 criminal attempt, criminal solicitation, or criminal conspiracy to
20 commit such crimes;

21 (b) A felony with a finding of sexual motivation under RCW
22 9.94A.127 or 13.40.135; or

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

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

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

33 (36) "Transition training" means written and verbal instructions
34 and assistance provided by the department to the offender during the
35 two weeks prior to the offender's successful completion of the work
36 ethic camp program. The transition training shall include instructions
37 in the offender's requirements and obligations during the offender's
38 period of community custody.

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

4 (38) "Violent offense" means:

5 (a) Any of the following felonies, as now existing or hereafter
6 amended: Any felony defined under any law as a class A felony or an
7 attempt to commit a class A felony, criminal solicitation of or
8 criminal conspiracy to commit a class A felony, manslaughter in the
9 first degree, manslaughter in the second degree, indecent liberties if
10 committed by forcible compulsion, kidnapping in the second degree,
11 arson in the second degree, assault in the second degree, assault of a
12 child in the second degree, extortion in the first degree, robbery in
13 the second degree, vehicular assault, and vehicular homicide, when
14 proximately caused by the driving of any vehicle by any person while
15 under the influence of intoxicating liquor or any drug as defined by
16 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

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

35 (40) "Work ethic camp" means an alternative incarceration program
36 designed to reduce recidivism and lower the cost of corrections by
37 requiring offenders to complete a comprehensive array of real-world job
38 and vocational experiences, character-building work ethics training,

1 life management skills development, substance abuse rehabilitation,
2 counseling, literacy training, and basic adult education.

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

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

11 **Sec. 43.** RCW 13.04.011 and 1992 c 205 s 119 are each amended to
12 read as follows:

13 For purposes of this title:

14 (1) "Adjudication" has the same meaning as "conviction" in RCW
15 9.94A.030 and the terms shall be construed identically and used
16 interchangeably;

17 (2) "Court" when used without further qualification means the
18 juvenile court judge(s) or commissioner(s);

19 (3) "Custodian" means that person who has the legal right to
20 custody of the child;

21 (4) "Department" means the department of social and health
22 services;

23 (5) Except as specifically provided in RCW 13.40.020 and chapter
24 13.24 RCW, (~~as now or hereafter amended,~~) "juvenile," "youth," and
25 "child" mean any individual who is under the chronological age of
26 eighteen years;

27 (~~(2)~~) (6) "Juvenile offender" and "juvenile offense" have the
28 meaning ascribed in RCW 13.40.020;

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

31 (~~(4)~~) (7) "Parent" or "parents," except as used in chapter 13.34
32 RCW, (~~as now or hereafter amended,~~) means that parent or parents who
33 have the right of legal custody of the child(~~(.—"Parent" or "parents"~~
34 ~~as used in chapter 13.34 RCW, means the biological or adoptive parents~~
35 ~~of a child unless the legal rights of that person have been terminated~~
36 ~~by judicial proceedings;~~

37 (~~(5)~~) ~~"Custodian" means that person who has the legal right to~~
38 ~~custody of the child);~~

1 (8) "Secretary" means the secretary of the department.

2 **Sec. 44.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
3 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (i) Relating to petitions to compel disclosure of information filed
31 by the department of social and health services pursuant to RCW
32 74.13.042.

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

37 (3) A juvenile subject to adult superior court jurisdiction under
38 subsection (1)(e)(i) through (iv) of this section, who is detained

1 pending trial, may be detained in a ((county)) detention facility as
2 defined in RCW 13.40.020 pending sentencing or a dismissal.

3 (4) A parent, guardian, or custodian who has custody of any
4 juvenile under juvenile court jurisdiction is subject to the
5 jurisdiction of the juvenile court for purposes of enforcing required
6 attendance at juvenile court hearings if the parent, guardian, or
7 custodian is served with a summons.

8 **Sec. 45.** RCW 13.32A.030 and 1996 c 133 s 9 are each amended to
9 read as follows:

10 As used in this chapter the following terms have the meanings
11 indicated unless the context clearly requires otherwise:

12 (1) "Administrator" means the individual who has the daily
13 administrative responsibility of a crisis residential center, or his or
14 her designee.

15 (2) "At-risk youth" means a juvenile:

16 (a) Who is absent from home for at least seventy-two consecutive
17 hours without consent of his or her parent;

18 (b) Who is beyond the control of his or her parent such that the
19 child's behavior endangers the health, safety, or welfare of the child
20 or any other person; or

21 (c) Who has a substance abuse problem for which there are no
22 pending criminal charges related to the substance abuse.

23 (3) "Child," "juvenile," and "youth" mean any unemancipated
24 individual who is under the chronological age of eighteen years.

25 (4) "Child in need of services" means a juvenile:

26 (a) Who is beyond the control of his or her parent such that the
27 child's behavior endangers the health, safety, or welfare of the child
28 or other person;

29 (b) Who has been reported to law enforcement as absent without
30 consent for at least twenty-four consecutive hours from the parent's
31 home, a crisis residential center, an out-of-home placement, or a
32 court-ordered placement on two or more separate occasions; and

33 (i) Has exhibited a serious substance abuse problem; or

34 (ii) Has exhibited behaviors that create a serious risk of harm to
35 the health, safety, or welfare of the child or any other person; or

36 (c)(i) Who is in need of necessary services, including food,
37 shelter, health care, clothing, educational, or services designed to
38 maintain or reunite the family;

1 (ii) Who lacks access, or has declined, to utilize these services;
2 and

3 (iii) Whose parents have evidenced continuing but unsuccessful
4 efforts to maintain the family structure or are unable or unwilling to
5 continue efforts to maintain the family structure.

6 (5) "Child in need of services petition" means a petition filed in
7 juvenile court by a parent, child, or the department seeking
8 (~~adjudication of~~) placement of the child.

9 (6) "Crisis residential center" means a secure or semi-secure
10 facility established pursuant to chapter 74.13 RCW.

11 (7) "Custodian" means the person or entity who has the legal right
12 to the custody of the child.

13 (~~(8) ("Department" means the department of social and health
14 services.~~

15 ~~(9))~~ "Extended family member" means an adult who is a grandparent,
16 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin
17 with whom the child has a relationship and is comfortable, and who is
18 willing and available to care for the child.

19 (~~(10))~~ (9) "Guardian" means that person or agency that (a) has
20 been appointed as the guardian of a child in a legal proceeding other
21 than a proceeding under chapter 13.34 RCW, and (b) has the right to
22 legal custody of the child pursuant to such appointment. The term
23 "guardian" does not include a "dependency guardian" appointed pursuant
24 to a proceeding under chapter 13.34 RCW.

25 (~~(11))~~ (10) "Multidisciplinary team" means a group formed to
26 provide assistance and support to a child who is an at-risk youth or a
27 child in need of services and his or her parent. The team shall
28 include the parent, a department case worker, a local government
29 representative when authorized by the local government, and when
30 appropriate, members from the mental health and substance abuse
31 disciplines. The team may also include, but is not limited to, the
32 following persons: Educators, law enforcement personnel, probation
33 officers, employers, church persons, tribal members, therapists,
34 medical personnel, social service providers, placement providers, and
35 extended family members. The team members shall be volunteers who do
36 not receive compensation while acting in a capacity as a team member,
37 unless the member's employer chooses to provide compensation or the
38 member is a state employee.

1 (~~(12)~~) (11) "Out-of-home placement" means a placement in a foster
2 family home or group care facility licensed pursuant to chapter 74.15
3 RCW or placement in a home, other than that of the child's parent,
4 guardian, or legal custodian, not required to be licensed pursuant to
5 chapter 74.15 RCW.

6 (~~(13)~~) (12) "Parent" means the parent or parents who have the
7 legal right to custody of the child. "Parent" includes custodian or
8 guardian.

9 (~~(14)~~) (13) "Secure facility" means a crisis residential center,
10 or portion thereof, that has locking doors, locking windows, or a
11 secured perimeter, designed and operated to prevent a child from
12 leaving without permission of the facility staff.

13 (~~(15)~~) (14) "Semi-secure facility" means any facility, including
14 but not limited to crisis residential centers or specialized foster
15 family homes, operated in a manner to reasonably assure that youth
16 placed there will not run away. Pursuant to rules established by the
17 department, the facility administrator shall establish reasonable hours
18 for residents to come and go from the facility such that no residents
19 are free to come and go at all hours of the day and night. To prevent
20 residents from taking unreasonable actions, the facility administrator,
21 where appropriate, may condition a resident's leaving the facility upon
22 the resident being accompanied by the administrator or the
23 administrator's designee and the resident may be required to notify the
24 administrator or the administrator's designee of any intent to leave,
25 his or her intended destination, and the probable time of his or her
26 return to the center.

27 (~~(16)~~) (15) "Temporary out-of-home placement" means an out-of-
28 home placement of not more than fourteen days ordered by the court at
29 a fact-finding hearing on a child in need of services petition.

30 **Sec. 46.** RCW 13.32A.140 and 1996 c 133 s 19 are each amended to
31 read as follows:

32 Unless the department files a dependency petition, the department
33 shall file a child in need of services petition to approve an out-of-
34 home placement on behalf of a child under any of the following sets of
35 circumstances:

36 (1) The child has been admitted to a crisis residential center or
37 has been placed by the department in an out-of-home placement, and:

1 (a) The parent has been notified that the child was so admitted or
2 placed;

3 (b) Seventy-two hours, including Saturdays, Sundays, and holidays,
4 have passed since such notification;

5 (c) No agreement between the parent and the child as to where the
6 child shall live has been reached;

7 (d) No child in need of services petition has been filed by either
8 the child or parent;

9 (e) The parent has not filed an at-risk youth petition; and

10 (f) The child has no suitable place to live other than the home of
11 his or her parent.

12 (2) The child has been admitted to a crisis residential center and:

13 (a) Seventy-two hours, including Saturdays, Sundays, and holidays,
14 have passed since such placement;

15 (b) The staff, after searching with due diligence, have been unable
16 to contact the parent of such child; and

17 (c) The child has no suitable place to live other than the home of
18 his or her parent.

19 (3) An agreement between parent and child made pursuant to RCW
20 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer
21 acceptable to parent or child, and:

22 (a) The party to whom the arrangement is no longer acceptable has
23 so notified the department;

24 (b) Seventy-two hours, including Saturdays, Sundays, and holidays,
25 have passed since such notification;

26 (c) No new agreement between parent and child as to where the child
27 shall live has been reached;

28 (d) No child in need of services petition has been filed by either
29 the child or the parent;

30 (e) The parent has not filed an at-risk youth petition; and

31 (f) The child has no suitable place to live other than the home of
32 his or her parent.

33 (4) A referral to the department has been made under section 33 or
34 39 of this act and the department reasonably concludes the child is a
35 child in need of services.

36 (5) Under the circumstances of subsections (1), (2), or (3) of this
37 section, the child shall remain in an out-of-home placement until a
38 child in need of services petition filed by the department on behalf of

1 the child is reviewed by the juvenile court and is resolved by the
2 court.

3 (6) The department may authorize emergency medical or dental care
4 for a child admitted to a crisis residential center or placed in an
5 out-of-home placement by the department. The state, when the
6 department files a child in need of services petition under this
7 section, shall be represented as provided for in RCW 13.04.093.

8 **Sec. 47.** RCW 13.32A.191 and 1995 c 312 s 25 are each amended to
9 read as follows:

10 (1) A child's parent may file with the juvenile court a petition in
11 the interest of a child alleged to be an at-risk youth. The department
12 shall, when requested, assist the parent in filing the petition. The
13 petition shall be filed in the county where the petitioner resides.
14 The petition shall set forth the name, age, and residence of the child
15 and the names and residence of the child's parents and shall allege
16 that:

- 17 (a) The child is an at-risk youth as defined in this chapter;
18 (b) The petitioner has the right to legal custody of the child;
19 (c) Court intervention and supervision are necessary to assist the
20 parent to maintain the care, custody, and control of the child; and
21 (d) Alternatives to court intervention have been attempted or there
22 is good cause why such alternatives have not been attempted.

23 (2) The petition shall set forth facts that support the allegations
24 in this section and shall generally request relief available under this
25 chapter. The petition need not specify any proposed disposition
26 following ~~((adjudication of))~~ action on the petition. The filing of an
27 at-risk youth petition is not dependent upon the court's having
28 obtained any prior jurisdiction over the child or his or her parent and
29 confers upon the court the special jurisdiction to assist the parent in
30 maintaining parental authority and responsibility for the child.

31 (3) A petition may not be filed if a dependency petition is pending
32 under chapter 13.34 RCW.

33 **Sec. 48.** RCW 13.32A.196 and 1995 c 312 s 28 are each amended to
34 read as follows:

35 (1) At the dispositional hearing ~~((regarding an adjudicated))~~ for
36 an at-risk youth, the court shall consider the recommendations of the
37 parties and the recommendations of any dispositional plan submitted by

1 the department. The court may enter a dispositional order that will
2 assist the parent in maintaining the care, custody, and control of the
3 child and assist the family to resolve family conflicts or problems.

4 (2) The court may set conditions of supervision for the child that
5 include:

6 (a) Regular school attendance;

7 (b) Counseling;

8 (c) Participation in a substance abuse or mental health outpatient
9 treatment program;

10 (d) Reporting on a regular basis to the department or any other
11 designated person or agency; and

12 (e) Any other condition the court deems an appropriate condition of
13 supervision including but not limited to: Employment, participation in
14 an anger management program, and refraining from using alcohol or
15 drugs.

16 (3) No dispositional order or condition of supervision ordered by
17 a court pursuant to this section shall include involuntary commitment
18 of a child for substance abuse or mental health treatment.

19 (4) The court may order the parent to participate in counseling
20 services or any other services for the child requiring parental
21 participation. The parent shall cooperate with the court-ordered case
22 plan and shall take necessary steps to help implement the case plan.
23 The parent shall be financially responsible for costs related to the
24 court-ordered plan; however, this requirement shall not affect the
25 eligibility of the parent or child for public assistance or other
26 benefits to which the parent or child may otherwise be entitled.

27 (5) The parent may request dismissal of an at-risk youth proceeding
28 or out-of-home placement at any time and upon such a request, the court
29 shall dismiss the matter and cease court supervision of the child
30 unless: (a) A contempt action is pending in the case; (b) a petition
31 has been filed under RCW 13.32A.150 and a hearing has not yet been held
32 under RCW 13.32A.179; or (c) an order has been entered under RCW
33 13.32A.179(3) and the court retains jurisdiction under that subsection.
34 The court may retain jurisdiction over the matter for the purpose of
35 concluding any pending contempt proceedings, including the full
36 satisfaction of any penalties imposed as a result of a contempt
37 finding.

38 (6) The court may order the department to monitor compliance with
39 the dispositional order, assist in coordinating the provision of court-

1 ordered services, and submit reports at subsequent review hearings
2 regarding the status of the case.

3 **Sec. 49.** RCW 13.32A.198 and 1990 c 276 s 15 are each amended to
4 read as follows:

5 (1) Upon making a disposition (~~((regarding an adjudicated))~~) for an
6 at-risk youth, the court shall schedule the matter on the calendar for
7 review within three months, advise the parties of the date thereof,
8 appoint legal counsel for the child, advise the parent of the right to
9 be represented by legal counsel at the review hearing at the parent's
10 own expense, and notify the parties of their rights to present evidence
11 at the hearing.

12 (2) At the review hearing, the court shall approve or disapprove
13 the continuation of court supervision in accordance with the goal of
14 assisting the parent to maintain the care, custody, and control of the
15 child. The court shall determine whether the parent and child are
16 complying with the dispositional plan. If court supervision is
17 continued, the court may modify the dispositional plan.

18 (3) Court supervision of the child may not be continued past one
19 hundred eighty days from the day the review hearing commenced unless
20 the court finds, and the parent agrees, that there are compelling
21 reasons for an extension of supervision. Any extension granted
22 pursuant to this subsection shall not exceed ninety days.

23 (4) The court may dismiss an at-risk youth proceeding at any time
24 if the court finds good cause to believe that continuation of court
25 supervision would serve no useful purpose or that the parent is not
26 cooperating with the court-ordered case plan. The court shall dismiss
27 an at-risk youth proceeding if the child is the subject of a proceeding
28 under chapter 13.34 RCW.

29 **Sec. 50.** RCW 13.34.030 and 1995 c 311 s 23 are each amended to
30 read as follows:

31 For purposes of this chapter:

32 (1) "Child" and "juvenile" means any individual under the age of
33 eighteen years.

34 (2) "Current placement episode" means the period of time that
35 begins with the most recent date that the child was removed from the
36 home of the parent, guardian, or legal custodian for purposes of
37 placement in out-of-home care and continues until the child returns

1 home, an adoption decree or guardianship order is entered, or the
2 dependency is dismissed, whichever occurs soonest. If the most recent
3 date of removal occurred prior to the filing of a dependency petition
4 under this chapter or after filing but prior to entry of a disposition
5 order, such time periods shall be included when calculating the length
6 of a child's current placement episode.

7 (3) "Dependency guardian" means the person, nonprofit corporation,
8 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for
9 the limited purpose of assisting the court in the supervision of the
10 dependency.

11 (4) "Dependent child" means any child:

12 (a) Who has been abandoned; that is, where the child's parent,
13 guardian, or other custodian has expressed either by statement or
14 conduct, an intent to forego, for an extended period, parental rights
15 or parental responsibilities despite an ability to do so. If the court
16 finds that the petitioner has exercised due diligence in attempting to
17 locate the parent, no contact between the child and the child's parent,
18 guardian, or other custodian for a period of three months creates a
19 rebuttable presumption of abandonment, even if there is no expressed
20 intent to abandon;

21 (b) Who is abused or neglected as defined in chapter 26.44 RCW by
22 a person legally responsible for the care of the child;

23 (c) Who has no parent, guardian, or custodian capable of adequately
24 caring for the child, such that the child is in circumstances which
25 constitute a danger of substantial damage to the child's psychological
26 or physical development; or

27 (d) Who has a developmental disability, as defined in RCW
28 71A.10.020 and whose parent, guardian, or legal custodian together with
29 the department determines that services appropriate to the child's
30 needs can not be provided in the home. However, (a), (b), and (c) of
31 this subsection may still be applied if other reasons for removal of
32 the child from the home exist.

33 (5) "Guardian" means the person or agency that: (a) Has been
34 appointed as the guardian of a child in a legal proceeding other than
35 a proceeding under this chapter; and (b) has the legal right to custody
36 of the child pursuant to such appointment. The term "guardian" shall
37 not include a "dependency guardian" appointed pursuant to a proceeding
38 under this chapter.

1 (6) "Guardian ad litem" means a person, appointed by the court to
2 represent the best interest of a child in a proceeding under this
3 chapter, or in any matter which may be consolidated with a proceeding
4 under this chapter. A "court-appointed special advocate" appointed by
5 the court to be the guardian ad litem for the child, or to perform
6 substantially the same duties and functions as a guardian ad litem,
7 shall be deemed to be guardian ad litem for all purposes and uses of
8 this chapter.

9 (7) "Guardian ad litem program" means a court-authorized volunteer
10 program, which is or may be established by the superior court of the
11 county in which such proceeding is filed, to manage all aspects of
12 volunteer guardian ad litem representation for children alleged or
13 found to be dependent. Such management shall include but is not
14 limited to: Recruitment, screening, training, supervision, assignment,
15 and discharge of volunteers.

16 (8) "Out-of-home care" means placement in a foster family home or
17 group care facility licensed pursuant to chapter 74.15 RCW or placement
18 in a home, other than that of the child's parent, guardian, or legal
19 custodian, not required to be licensed pursuant to chapter 74.15 RCW.

20 (9) "Parent" or "parents" means the biological or adoptive parents
21 of a child unless the legal rights of that person have been terminated
22 by judicial proceedings.

23 (10) "Preventive services" means preservation services, as defined
24 in chapter 74.14C RCW, and other reasonably available services capable
25 of preventing the need for out-of-home placement while protecting the
26 child.

27 **Sec. 51.** RCW 13.50.050 and 1992 c 188 s 7 are each amended to read
28 as follows:

29 (1) This section governs records relating to the commission of
30 juvenile offenses, including records relating to diversions.

31 (2) The official juvenile court file of any alleged or proven
32 juvenile offender shall be open to public inspection, unless sealed
33 pursuant to subsection (11) of this section.

34 (3) All records other than the official juvenile court file are
35 confidential and may be released only as provided in this section, RCW
36 13.50.010, 13.40.215, and 4.24.550.

37 (4) Except as otherwise provided in this section and RCW 13.50.010,
38 records retained or produced by any juvenile justice or care agency may

1 be released to other participants in the juvenile justice or care
2 system only when an investigation or case involving the juvenile in
3 question is being pursued by the other participant or when that other
4 participant is assigned the responsibility for supervising the
5 juvenile.

6 (5) Except as provided in RCW 4.24.550, information not in an
7 official juvenile court file concerning a juvenile or a juvenile's
8 family may be released to the public only when that information could
9 not reasonably be expected to identify the juvenile or the juvenile's
10 family.

11 (6) Notwithstanding any other provision of this chapter, the
12 release, to the juvenile or his or her attorney, of law enforcement and
13 prosecuting attorneys' records pertaining to investigation, diversion,
14 and prosecution of juvenile offenses shall be governed by the rules of
15 discovery and other rules of law applicable in adult criminal
16 investigations and prosecutions.

17 (7) The juvenile court and the prosecutor may set up and maintain
18 a central record-keeping system which may receive information on all
19 alleged juvenile offenders against whom a complaint has been filed
20 pursuant to RCW 13.40.070 whether or not their cases are currently
21 pending before the court. The central record-keeping system may be
22 computerized. If a complaint has been referred to a diversion unit,
23 the diversion unit shall promptly report to the juvenile court or the
24 prosecuting attorney when the juvenile has agreed to diversion. An
25 offense shall not be reported as criminal history in any central
26 record-keeping system without notification by the diversion unit of the
27 date on which the offender agreed to diversion.

28 (8) Upon request of the victim of a crime or the victim's immediate
29 family, the identity of an alleged or proven juvenile offender alleged
30 or found to have committed a crime against the victim and the identity
31 of the alleged or proven juvenile offender's parent, guardian, or
32 custodian and the circumstance of the alleged or proven crime shall be
33 released to the victim of the crime or the victim's immediate family.

34 (9) Subject to the rules of discovery applicable in adult criminal
35 prosecutions, the juvenile offense records of an adult criminal
36 defendant or witness in an adult criminal proceeding shall be released
37 upon request to prosecution and defense counsel after a charge has
38 actually been filed. The juvenile offense records of any adult
39 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 to
4 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) of this section, order the sealing of the
9 official juvenile court file, the social file, and records of the court
10 and of any other agency in the case.

11 (11) The court shall grant the motion to seal records made pursuant
12 to subsection (10) of this section if it finds that:

13 (a) Two years have elapsed from the later of: (i) Final discharge
14 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 offense;

17 (b) No proceeding is pending against the moving party seeking the
18 conviction of a juvenile offense or a criminal offense; ~~((and))~~

19 (c) No proceeding is pending seeking the formation of a diversion
20 agreement with that person;

21 (d) The person making the motion is not under an obligation to
22 register as a sex offender under chapter 9A.44 RCW; and

23 (e) Treatment has been successfully completed if the person was
24 ordered into treatment under section 27 of this act.

25 (12) The person making a motion pursuant to subsection (10) of this
26 section shall give reasonable notice of the motion to the prosecution
27 and to any person or agency whose files are sought to be sealed.

28 (13) If the court grants the motion to seal made pursuant to
29 subsection (10) of this section, it shall, subject to subsection (24)
30 of this section, order sealed the official juvenile court file, the
31 social file, and other records relating to the case as are named in the
32 order. Thereafter, the proceedings in the case shall be treated as if
33 they never occurred, and the subject of the records may reply
34 accordingly to any inquiry about the events, records of which are
35 sealed. Any agency shall reply to any inquiry concerning confidential
36 or sealed records that records are confidential, and no information can
37 be given about the existence or nonexistence of records concerning an
38 individual.

1 (14) Inspection of the files and records included in the order to
2 seal may thereafter be permitted only by order of the court upon motion
3 made by the person who is the subject of the information or complaint,
4 except as otherwise provided in RCW 13.50.010(8) and subsection (24) of
5 this section.

6 (15)(a) Any adjudication of a juvenile offense or a crime
7 subsequent to sealing has the effect of nullifying the sealing order.

8 (b) Any conviction for any adult felony subsequent to the sealing
9 has the effect of nullifying the sealing order for the purposes of
10 chapter 9.94A RCW for any juvenile adjudication of guilt for a class A
11 offense, a violent offense as defined in RCW 9.94A.030, or a sex
12 offense as defined in RCW 9.94A.030.

13 (c) The existence of an obligation to register as a sex offender
14 under chapter 9A.44 RCW regardless of when the obligation arose, or any
15 adjudication of a juvenile offense or a conviction of a crime that
16 creates the obligation to register as a sex offender under chapter
17 9A.44 RCW subsequent to sealing, has the effect of nullifying the
18 sealing order.

19 (16) In any case in which an information has been filed pursuant to
20 RCW 13.40.100 or a complaint has been filed with the prosecutor and
21 referred for diversion pursuant to RCW 13.40.070, the person who is the
22 subject of the information or complaint may file a motion with the
23 court to have the court vacate its order and findings, if any, and,
24 subject to subsection (24) of this section, order the destruction of
25 the official juvenile court file, the social file, and records of the
26 court and of any other agency in the case.

27 (17) The court may grant the motion to destroy records made
28 pursuant to subsection (16) of this section if it finds:

29 (a) The person making the motion is at least twenty-three years of
30 age;

31 (b) The person has not subsequently been convicted of a felony;

32 (c) No proceeding is pending against that person seeking the
33 conviction of a criminal offense; and

34 (d) The person has never been found guilty of a serious offense.

35 (18) A person eighteen years of age or older whose criminal history
36 consists of only one referral for diversion may request that the court
37 order the records in that case destroyed. The request shall be
38 granted, subject to subsection (24) of this section, if the court finds

1 that two years have elapsed since completion of the diversion
2 agreement.

3 (19) If the court grants the motion to destroy records made
4 pursuant to subsection (16) or (18) of this section, it shall, subject
5 to subsection (24) of this section, order the official juvenile court
6 file, the social file, and any other records named in the order to be
7 destroyed.

8 (20) The person making the motion pursuant to subsection (16) or
9 (18) of this section shall give reasonable notice of the motion to the
10 prosecuting attorney and to any agency whose records are sought to be
11 destroyed.

12 (21) Any juvenile to whom the provisions of this section may apply
13 shall be given written notice of his or her rights under this section
14 at the time of his or her disposition hearing or during the diversion
15 process.

16 (22) Nothing in this section may be construed to prevent a crime
17 victim or a member of the victim's family from divulging the identity
18 of the alleged or proven juvenile offender or his or her family when
19 necessary in a civil proceeding.

20 (23) Any juvenile justice or care agency may, subject to the
21 limitations in subsection (24) of this section and subparagraphs (a)
22 and (b) of this subsection, develop procedures for the routine
23 destruction of records relating to juvenile offenses and diversions.

24 (a) Records may be routinely destroyed only when the person the
25 subject of the information or complaint has attained twenty-three years
26 of age or older, or is eighteen years of age or older and his or her
27 criminal history consists entirely of one diversion agreement and two
28 years have passed since completion of the agreement.

29 (b) The court may not routinely destroy the official juvenile court
30 file or recordings or transcripts of any proceedings.

31 (24) No identifying information held by the Washington state patrol
32 in accordance with chapter 43.43 RCW is subject to destruction or
33 sealing under this section. For the purposes of this subsection,
34 identifying information includes photographs, fingerprints, palmprints,
35 soleprints, toeprints and any other data that identifies a person by
36 physical characteristics, name, birthdate or address, but does not
37 include information regarding criminal activity, arrest, charging,
38 diversion, conviction or other information about a person's treatment
39 by the criminal justice system or about the person's behavior.

1 (25) Information identifying child victims under age eighteen who
2 are victims of sexual assaults by juvenile offenders is confidential
3 and not subject to release to the press or public without the
4 permission of the child victim or the child's legal guardian.
5 Identifying information includes the child victim's name, addresses,
6 location, photographs, and in cases in which the child victim is a
7 relative of the alleged perpetrator, identification of the relationship
8 between the child and the alleged perpetrator. Information identifying
9 a child victim of sexual assault may be released to law enforcement,
10 prosecutors, judges, defense attorneys, or private or governmental
11 agencies that provide services to the child victim of sexual assault.

12 **Sec. 52.** RCW 13.70.010 and 1991 c 127 s 3 are each amended to read
13 as follows:

14 Unless the context requires otherwise, the definitions in this
15 section apply throughout this chapter.

16 (1) "Board" means the local citizen review board established
17 pursuant to this chapter.

18 (2) "Child" means a person less than eighteen years of age.

19 (3) "Committee" means a local Indian child welfare advisory
20 committee established pursuant to WAC 388-70-610, as now existing or
21 hereafter amended by the department.

22 (4) "Conflict of interest" means that a person appointed to a board
23 has a personal or pecuniary interest in a case being reviewed by that
24 board.

25 (5) "Court" means the juvenile court.

26 (6) "Custodian" means that person who has legal custody of the
27 child.

28 (7) (~~("Department" means the department of social and health
29 services.~~

30 ~~(8))~~) "Mature child" means a child who is able to understand and
31 participate in the decision-making process without excessive anxiety or
32 fear. A child twelve years old or over shall be rebuttably presumed to
33 be a mature child.

34 (~~(9))~~) (8) "Parent" or "parents" means the biological or adoptive
35 parents of a child unless the legal rights of that person have been
36 terminated by judicial proceedings.

37 (~~(10))~~) (9) "Placement episode" means the period of time that
38 begins with the date the child was removed from the home of the parent

1 or legal custodian for the purposes of placement in substitute care and
2 continues until the child returns home or an adoption decree or
3 guardianship order is entered.

4 ~~((11))~~ (10) "Records" means any information in written form,
5 pictures, photographs, charts, graphs, recordings, or documents
6 pertaining to a case.

7 ~~((12))~~ (11) "Resides" or "residence," when used in reference to
8 the residence of a child, means the place where the child is actually
9 living and not the legal residence or domicile of the parent or
10 guardian.

11 ~~((13))~~ (12) "Substitute care" means an out-of-home placement of
12 a child for purposes related to the provision of child welfare services
13 in accordance with chapter 74.13 RCW where the child is in the care,
14 custody, and control of the department pursuant to a proceeding under
15 chapter 13.34 RCW or pursuant to the written consent of the child's
16 parent or parents or custodian.

17 **Sec. 53.** RCW 13.80.020 and 1994 c 152 s 2 are each amended to read
18 as follows:

19 Unless the context clearly requires otherwise, the definition~~((s))~~
20 in this section ~~((apply))~~ applies throughout this chapter.

21 ~~((1))~~ "Court-involved youth" means those youth under the age of
22 twenty-one who, within the past twenty-four months:

23 ~~((a))~~ (1) Have served a court-imposed sentence;

24 ~~((b))~~ (2) Are or have been on probation or parole; or

25 ~~((c))~~ (3) Are involved in a legal proceeding in which the youth
26 may be found to have committed a criminal or juvenile offense and are
27 not participating in a diversion agreement under RCW 13.40.080.

28 ~~((2) "Department" means the department of social and health
29 services.))~~

30 **Sec. 54.** RCW 43.43.735 and 1991 c 3 s 297 are each amended to read
31 as follows:

32 (1) It shall be the duty of the sheriff or director of public
33 safety of every county, and the chief of police of every city or town,
34 and of every chief officer of other law enforcement agencies duly
35 operating within this state, to cause the photographing and
36 fingerprinting of all adults and juveniles lawfully arrested for the
37 commission of any criminal offense constituting a felony or gross

1 misdemeanor. (~~((a) When such juveniles are brought directly to a~~
2 ~~juvenile detention facility, the juvenile court administrator is also~~
3 ~~authorized, but not required, to cause the photographing,~~
4 ~~fingerprinting, and record transmittal to the appropriate law~~
5 ~~enforcement agency; and (b) a further)) An exception may be made when
6 the arrest is for a violation punishable as a gross misdemeanor and the
7 arrested person is not taken into custody.~~

8 (2) It shall be the right, but not the duty, of the sheriff or
9 director of public safety of every county, and the chief of police of
10 every city or town, and every chief officer of other law enforcement
11 agencies operating within this state to photograph and record the
12 fingerprints of all adults lawfully arrested, all persons who are the
13 subject of dependency record information, or all persons who are the
14 subject of protection proceeding record information.

15 (3) Such sheriffs, directors of public safety, chiefs of police,
16 and other chief law enforcement officers, may record, in addition to
17 photographs and fingerprints, the palmprints, soleprints, toeprints, or
18 any other identification data of all persons whose photograph and
19 fingerprints are required or allowed to be taken under this section,
20 all persons who are the subject of dependency record information, or
21 all persons who are the subject of protection proceeding record
22 information, when in the discretion of such law enforcement officers it
23 is necessary for proper identification of the arrested person or the
24 investigation of the crime with which he is charged.

25 (4) It shall be the duty of the department of health or the court
26 having jurisdiction over the dependency action and protection
27 proceedings under chapter 74.34 RCW to cause the fingerprinting of all
28 persons who are the subject of a disciplinary board final decision,
29 dependency record information, protection proceeding record
30 information, or to obtain other necessary identifying information, as
31 specified by the section in rules adopted under chapter 34.05 RCW to
32 carry out the provisions of this subsection.

33 (5) The court having jurisdiction over the dependency or protection
34 proceeding action may obtain and record, in addition to fingerprints,
35 the photographs, palmprints, soleprints, toeprints, or any other
36 identification data of all persons who are the subject of dependency
37 record information or protection proceeding record information, when in
38 the discretion of the court it is necessary for proper identification
39 of the person.

1 NEW SECTION. **Sec. 55.** A new section is added to chapter 2.08 RCW
2 to read as follows:

3 (1) The legislature intends to encourage the superior courts of the
4 state to modify the operation of the juvenile court to allow family
5 members to participate in the proceedings involving juveniles. By
6 encouraging superior courts to shift hours of operation, including
7 evenings and weekends, to facilitate family participation, it is not
8 the intent of the legislature to increase the cost of court operations.

9 (2) After the effective date of this section, the statutory
10 authorization of additional judicial positions under this chapter for
11 any county or judicial district shall not take effect unless the county
12 legislative authority has approved and submitted to the administrator
13 for the courts a plan, including an implementation schedule, to allow
14 operation of the juvenile court during evening and weekend hours.

15 (3) No county with a population greater than two hundred thousand,
16 and no county in a judicial district with a population greater than two
17 hundred thousand shall issue any bonds, notes, or other evidences of
18 indebtedness for the construction, improvement, or expansion of
19 superior court facilities unless the county legislative authority has
20 approved and submitted to the administrator for the courts a plan,
21 including an implementation schedule, to allow operation of the
22 juvenile court during evening and weekend hours.

23 NEW SECTION. **Sec. 56.** A new section is added to chapter 36.67 RCW
24 to read as follows:

25 A county's issuance of bonds, notes, or other evidences of
26 indebtedness for the construction, improvement, or expansion of
27 superior court facilities is subject to the conditions prescribed under
28 section 55 of this act.

29 NEW SECTION. **Sec. 57.** A new section is added to chapter 70.96A
30 RCW to read as follows:

31 The department shall prioritize expenditures for treatment provided
32 under section 27 of this act. The department shall provide funds for
33 inpatient and outpatient treatment providers that are the most
34 successful, using the standards developed by the University of
35 Washington under section 28, chapter . . . , Laws of 1997 (section 28 of
36 this act). The department may consider variations between the nature
37 of the programs provided and clients served but must provide funds

1 first for those programs that demonstrate the greatest success in
2 treatment within categories of treatment and the nature of the persons
3 receiving treatment.

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

7 NEW SECTION. **Sec. 58.** The sentencing guidelines commission shall
8 review conviction data for the past ten years. The commission shall
9 submit a proposed bill to the legislature for introduction in the 1998
10 legislative session that appropriately ranks all unranked felony
11 offenses for which there have been convictions for the period studied.

12 NEW SECTION. **Sec. 59.** (1) The juvenile justice reform
13 implementation task force, referred to in this section as the "task
14 force" is created.

15 (2) The task force shall prepare and submit to the governor and the
16 legislature, not later than December 15, 1997, a plan to accomplish a
17 reduction in the rate of recidivism of juvenile offenders consistent
18 with the purposes identified in section 2 of this act. The plan shall
19 examine juvenile offender intervention and service delivery programs
20 and include recommendations on the following: (a) Those programs that
21 should be expanded, created, or revised to implement this act; (b) the
22 level of funding required for effective implementation of the
23 recommended programs; and (c) the relative priority of the recommended
24 programs. The prioritization shall be based on the task force's
25 assessment of the need for and cost-effectiveness of the recommended
26 programs. The plan shall also include a proposal for evaluation of the
27 outcomes of the recommended programs and for those programs covered by
28 section 61 of this act.

29 (3) The task force shall consist of seventeen members including one
30 representative from each of the following interests: Superior court
31 judges; counties; cities; prosecuting attorneys; criminal defense
32 attorneys; juvenile rehabilitation administration; division of alcohol
33 and substance abuse; division of mental health; division of children
34 and family services; attorney general; employment security; K-12
35 education; crime victim advocacy; office of financial management; the
36 department of health; and two members of the public. The governor
37 shall appoint the membership and the first meeting shall occur not

1 later than July 1, 1997. The task force shall cease to exist June 30,
2 1998.

3 (4) The task force and the community networks, established under
4 chapter 70.190 RCW, shall collaborate on recommendations to the
5 legislature and governor on services designed to prevent juvenile
6 violence. The networks and task force shall meet to prepare
7 recommendations to reduce the risk factors associated with youth
8 violence. The recommendations shall be included in the task force's
9 plan and shall not be inconsistent with approved network plans.

10 (5) The joint legislative juvenile justice oversight committee,
11 referred to in this section as the "oversight committee" is created.

12 (6) There shall be twelve members on the oversight committee. Six
13 members shall be appointed by the president of the senate and six shall
14 be appointed by the speaker of the house of representatives. Three
15 members appointed by the president of the senate shall be from the
16 majority caucus, and three members shall be from the minority caucus in
17 the senate. Three members appointed by the speaker of the house of
18 representatives shall be from the majority caucus, and three members
19 shall be from the minority caucus in the house of representatives. The
20 oversight committee shall cease to exist June 30, 1998.

21 (7) Members of the task force shall be reimbursed for expenses as
22 provided in RCW 43.03.050 and 43.03.060 and shall serve without
23 compensation.

24 (8) Members of the oversight committee are eligible for
25 reimbursement under RCW 44.04.120.

26 (9) The task force shall meet at least monthly, select its
27 officers, and may establish its rules of operation. Task force
28 meetings are subject to the open public meetings act under chapter
29 42.30 RCW.

30 (10) The task force shall report to the oversight committee at
31 least once every sixty days and may meet at times and locations it
32 determines appropriate.

33 NEW SECTION. **Sec. 60.** A new section is added to chapter 43.330
34 RCW to read as follows:

35 (1) A grant program to provide funds to local governments for the
36 provision of community-based volunteer mentoring programs for juvenile
37 offenders is created in the department.

1 (2) The department shall adopt funding criteria and program
2 guidelines for the mentoring programs. The criteria and guidelines
3 shall be developed in consultation with the department of social and
4 health services and the task force created in section 59 of this act.

5 (3) The funding criteria shall: (a) Give priority to local
6 governments that have a community public health and safety network
7 within their jurisdiction that has identified youth violence as a
8 problem behavior; (b) include a requirement of a twenty-five percent
9 match by the local government, which may be met with the provision of
10 in-kind services; and (c) require the local government to contract for
11 the mentoring services with one or more private, nonprofit agencies.

12 (4) The guidelines shall include, at a minimum, the following:

13 (a) Minimum qualifications and background screening for volunteer
14 mentors and case managers. Programs should encourage recruitment of
15 volunteers who have prior education, professional experience, or
16 personal experience in working with at-risk or adjudicated youth;

17 (b) Appropriate orientation and training;

18 (c) A commitment to provide an average of four hours of contact
19 with the youth per week for a period of at least twelve consecutive
20 months;

21 (d) Reimbursement rates and procedures. Volunteer mentors may be
22 reimbursed for expenses consistent with the reimbursement policies
23 established in RCW 43.03.050 and 43.03.060;

24 (e) Services to youth who are between ages twelve and fifteen years
25 of age at the time of entry into the program, who have at least: (i)
26 Two convictions or diversions for misdemeanor or gross misdemeanor
27 offenses, or any combination thereof; (ii) one conviction for a felony
28 offense; or (iii) one conviction or diversion and have been evaluated
29 and referred by a probation officer who has determined the youth is at
30 high risk of reoffending;

31 (f) One-to-one ratio for mentors and juvenile offenders; and

32 (g) Will collect and transmit to the department data as required
33 under section 61 (3) and (4) of this act.

34 (5) The program shall begin no later than January 1, 1998.

35 NEW SECTION. **Sec. 61.** A new section is added to chapter 13.40 RCW
36 to read as follows:

37 (1) Each juvenile offender intervention or service delivery program
38 meeting the criteria in subsection (2) of this section shall comply

1 with the information collection requirements in subsection (3) of this
2 section and the reporting requirements in subsection (4) of this
3 section.

4 (2) The juvenile offender intervention or service delivery program:
5 (a) Receives fifty thousand dollars or more per year in state or
6 federal funds; (b) serves more than thirty juvenile offenders per year;
7 (c) serves participating juvenile offenders for at least twelve weeks;
8 and (d) is intended, as a part of its core mission, to reduce the
9 recidivism rate of the participating juvenile offenders.

10 (3) The information collected by each juvenile offender
11 intervention or service delivery program shall include, at a minimum:
12 (a) The name, date of birth, gender, social security number, and the
13 juvenile information system (JUVIS) control number of each juvenile
14 selected for participation in the program; (b) an initial intake
15 assessment of each juvenile participating in the program; (c) a list of
16 all juveniles who were terminated from the program before completion;
17 (d) a list of all juveniles who completed the program; and (e) an
18 assessment upon completion or termination of each juvenile, including
19 outcomes and, where applicable, reasons for termination.

20 (4) Each juvenile offender intervention or service delivery program
21 shall submit annually to the office of financial management, in a form
22 approved in advance by the office of financial management, a report
23 containing the following: (a) The total program cost and cost per
24 juvenile; (b) the essential elements of the program; and (c) the
25 information specified in subsection (3) of this section.

26 NEW SECTION. **Sec. 62.** The legislature finds that it is necessary
27 to improve the analysis, evaluation, and forecasting of sentencing and
28 treatment alternatives for adult and juvenile offenders.

29 In order to establish a universally accepted measuring tool for use
30 in making informed corrections and public safety policy decisions in
31 the adult and juvenile corrections systems, the Washington state
32 institute for public policy shall develop a proposed definition of
33 recidivism. The institute's definition shall provide the legislature
34 and the governor with an objective, outcome-based standard for
35 measuring the success of programs in increasing public safety and
36 reducing subsequent offenses by convicted persons.

37 The definition shall be reported to the governor and the
38 legislature by December 31, 1997.

1 NEW SECTION. **Sec. 63.** RCW 13.40.025 and 1996 c 232 s 4, 1995 c
2 269 s 302, 1986 c 288 s 8, 1984 c 287 s 11, & 1981 c 299 s 3 are each
3 repealed.

4 NEW SECTION. **Sec. 64.** Sections 4, 16, 23, 25, and 31 of this act
5 apply only to offenses committed on or after the effective date of this
6 section.

7 NEW SECTION. **Sec. 65.** Sections 1 through 54, 57 through 64, 67,
8 and 68 of this act are necessary for the immediate preservation of the
9 public peace, health, or safety, or support of the state government and
10 its existing public institutions, and take effect July 1, 1997.

11 NEW SECTION. **Sec. 66.** Sections 55 and 56 of this act take effect
12 January 1, 1998.

13 NEW SECTION. **Sec. 67.** The sum of one million dollars, or as much
14 thereof as may be necessary, is appropriated for the fiscal year ending
15 June 30, 1998, from the general fund to the department of community,
16 trade, and economic development to assist counties in planning for
17 capital needs associated with this act.

18 NEW SECTION. **Sec. 68.** The sum of three hundred thousand dollars,
19 or as much thereof as may be necessary, is appropriated for the fiscal
20 year ending June 30, 1998, from the general fund to the office of
21 financial management for the purposes of operating and supporting the
22 task force in section 59 of this act.

23 NEW SECTION. **Sec. 69.** (1) The sum of two hundred fifty thousand
24 dollars, or as much thereof as may be necessary, is appropriated for
25 the fiscal year ending June 30, 1998, from the general fund to the
26 family policy council for the purposes of section 59(4) of this act.

27 (2) The sum of two hundred fifty thousand dollars, or as much
28 thereof as may be necessary, is appropriated for the fiscal year ending
29 June 30, 1999, from the general fund to the family policy council for
30 the purposes of section 59(4) of this act.

31 NEW SECTION. **Sec. 70.** (1) The sum of seventy-five thousand
32 dollars, or as much thereof as may be necessary, is appropriated for

1 the fiscal year ending June 30, 1998, from the general fund to the
2 department of community, trade, and economic development for the
3 purposes of implementing community-based mentoring programs as
4 described in section 60 of this act.

5 (2) The sum of one hundred fifty thousand dollars, or as much
6 thereof as may be necessary, is appropriated for the fiscal year ending
7 June 30, 1999, from the general fund to the department of community,
8 trade, and economic development for the purposes of implementing
9 community-based mentoring programs as described in section 60 of this
10 act.

11 NEW SECTION. **Sec. 71.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

--- END ---