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HOUSE BILL 1616

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State of Washington

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1999 Regular Session

By Representatives Carrell, Mielke, Sullivan, Conway, Esser, Sump, Wood, B. Chandler, Dunn, Stensen, Gombosky, Kastama, Miloscia, Cairnes, Schindler, Reardon and Schoesler

Read first time 02/01/1999. Referred to Committee on Criminal Justice & Corrections.

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

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares that:

7 (a) Criminal gang activity is a prevalent problem throughout this  
8 state and gang violence has had a tremendous impact on our communities  
9 and families;

10 (b) Gang members often view their gang as their "family." Gangs  
11 provide their members with negative guidance and undesirable values.  
12 This gang subculture perpetuates itself and leads to increased violence  
13 and crime;

14 (c) Current law does not sufficiently deter criminal street gang  
15 activity.

16 (2) By increasing penalties when an offense is committed for the  
17 benefit of, at the direction of, or in association with any criminal  
18 street gang, with the intent to promote, further, or assist in criminal  
19 conduct by gang members, the legislature intends to convey that

1 involvement in criminal street gangs is unacceptable. The legislature  
2 intends to deter criminal street gang activity by providing a  
3 sentencing enhancement.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW  
5 to read as follows:

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

13 (b) If the court finds that there are aggravating factors, the  
14 court may order the imposition of a sentence enhancement in excess of  
15 two years, but not to exceed three years. If the court finds that  
16 there are mitigating circumstances, the court may order the imposition  
17 of a sentence enhancement that is less than two years, but not less  
18 than one year. The court shall state the reasons for its choice of  
19 sentence enhancements on the record at the time of the sentencing.

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

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

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

36 (a) Murder, as defined in RCW 9A.32.030 or 9A.32.050;

37 (b) Robbery, as defined in RCW 9A.56.200 or 9A.56.210;

38 (c) Kidnapping, as defined in RCW 9A.40.020 or 9A.40.030;

- 1 (d) Theft, as defined in RCW 9A.56.030, 9A.56.040, or 9A.56.050;  
2 (e) Assault, as defined in RCW 9A.36.011 or 9A.36.021;  
3 (f) Delivery or manufacture of controlled substances or possession  
4 with intent to deliver or manufacture controlled substances under  
5 chapter 69.50 RCW;  
6 (g) Drive-by shooting, as defined in RCW 9A.36.045;  
7 (h) Reckless endangerment, as defined in RCW 9A.36.050;  
8 (i) Arson, as defined in RCW 9A.48.020 or 9A.48.030;  
9 (j) Intimidating a witness, as defined in RCW 9A.72.110;  
10 (k) Taking a motor vehicle without permission, as defined in RCW  
11 9A.56.070;  
12 (l) Burglary, as defined in RCW 9A.52.020, 9A.52.025, or 9A.52.030;  
13 (m) Rape, as defined in RCW 9A.44.040, 9A.44.050, or 9A.44.060;  
14 (n) Money laundering, as defined in RCW 9A.83.020;  
15 (o) Extortion, as defined in RCW 9A.56.120 or 9A.56.130;  
16 (p) Malicious mischief, as defined in RCW 9A.48.070, 9A.48.080, or  
17 9A.48.090;  
18 (q) Unlawful possession of a firearm, as defined in RCW 9.41.040(1)  
19 (a) or (b).

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

22 (1) A juvenile adjudicated of a felony offense that is committed  
23 for the benefit of, at the direction of, or in association with a  
24 criminal street gang, as defined in section 2 of this act, with the  
25 intent to promote, further, or assist in criminal conduct by gang  
26 members, must receive a sentence enhancement of ninety to one hundred  
27 twenty days confinement, at the discretion of the court, as provided in  
28 subsection (2) of this section.

29 (2)(a) The court must determine the standard range disposition for  
30 the offense for which the respondent was adjudicated under RCW  
31 13.40.160. One hundred five days must be added to the entire standard  
32 range disposition of confinement, except as provided in (b) of this  
33 subsection.

34 (b) If the court finds that there are aggravating circumstances,  
35 the court may order the imposition of a disposition enhancement that is  
36 in excess of one hundred five days, but not to exceed one hundred  
37 twenty days. If the court finds that there are mitigating  
38 circumstances, the court may impose a disposition enhancement of less

1 than one hundred five days, but not less than ninety days. The court  
 2 must state the reasons for its choice of sentence enhancements on the  
 3 record at the time of the disposition.

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

7 **Sec. 4.** RCW 9.94A.310 and 1998 c 235 s 1 and 1998 c 211 s 3 are  
 8 each reenacted and amended to read as follows:

9 (1) TABLE 1

10 Sentencing Grid

11 SERIOUSNESS		12 OFFENDER SCORE									
13 SCORE		14									
		0	1	2	3	4	5	6	7	8	9 or more
15	<hr/>										
16	XV	Life Sentence without Parole/Death Penalty									
17	<hr/>										
18	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
19		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
20		320	333	347	361	374	388	416	450	493	548
21	<hr/>										
22	XIII	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
23		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
24		220	234	244	254	265	275	295	316	357	397
25	<hr/>										
26	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
27		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
28		123	136	147	160	171	184	216	236	277	318
29	<hr/>										
30	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
31		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
32		102	114	125	136	147	158	194	211	245	280
33	<hr/>										
34	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
35		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
36		68	75	82	89	96	102	130	144	171	198
37	<hr/>										

1	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
2		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
3		41	48	54	61	68	75	102	116	144	171
4											
5	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
6		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
7		27	34	41	48	54	61	89	102	116	144
8											
9	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
10		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
11		20	27	34	41	48	54	75	89	102	116
12											
13	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
14		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
15		14	20	27	34	41	48	61	75	89	102
16											
17	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
18		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
19		12	14	17	20	29	43	54	68	82	96
20											
21	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
22		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
23		9	12	14	17	20	29	43	57	70	84
24											
25	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
26		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
27		3	8	12	12	16	22	29	43	57	68
28											
29	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
30		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
31		Days	6	9	12	14	18	22	29	43	57
32											
33	I			3m	4m	5m	8m	13m	16m	20m	2y2m
34		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
35		Days	Days	5	6	8	12	14	18	22	29
36											

37 NOTE: Numbers in the first horizontal row of each seriousness category  
38 represent sentencing midpoints in years(y) and months(m). Numbers in

1 the second and third rows represent presumptive sentencing ranges in  
2 months, or in days if so designated. 12+ equals one year and one day.

3 (2) For persons convicted of the anticipatory offenses of criminal  
4 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
5 presumptive sentence is determined by locating the sentencing grid  
6 sentence range defined by the appropriate offender score and the  
7 seriousness level of the completed crime, and multiplying the range by  
8 75 percent.

9 (3) The following additional times shall be added to the  
10 presumptive sentence for felony crimes committed after July 23, 1995,  
11 if the offender or an accomplice was armed with a firearm as defined in  
12 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
13 listed in this subsection as eligible for any firearm enhancements  
14 based on the classification of the completed felony crime. If the  
15 offender is being sentenced for more than one offense, the firearm  
16 enhancement or enhancements must be added to the total period of  
17 confinement for all offenses, regardless of which underlying offense is  
18 subject to a firearm enhancement. If the offender or an accomplice was  
19 armed with a firearm as defined in RCW 9.41.010 and the offender is  
20 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
21 commit one of the crimes listed in this subsection as eligible for any  
22 firearm enhancements, the following additional times shall be added to  
23 the presumptive sentence determined under subsection (2) of this  
24 section based on the felony crime of conviction as classified under RCW  
25 9A.28.020:

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

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

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

35 (d) If the offender is being sentenced for any firearm  
36 enhancements under (a), (b), and/or (c) of this subsection and the  
37 offender has previously been sentenced for any deadly weapon  
38 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
39 subsection or subsection (4)(a), (b), and/or (c) of this section, or

1 both, any and all firearm enhancements under this subsection shall be  
2 twice the amount of the enhancement listed.

3 (e) Notwithstanding any other provision of law, any and all  
4 firearm enhancements under this section are mandatory, shall be served  
5 in total confinement, and shall run consecutively to all other  
6 sentencing provisions, including other firearm or deadly weapon  
7 enhancements, for all offenses sentenced under this chapter.

8 (f) The firearm enhancements in this section shall apply to all  
9 felony crimes except the following: Possession of a machine gun,  
10 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
11 unlawful possession of a firearm in the first and second degree, and  
12 use of a machine gun in a felony.

13 (g) If the presumptive sentence under this section exceeds the  
14 statutory maximum for the offense, the statutory maximum sentence shall  
15 be the presumptive sentence unless the offender is a persistent  
16 offender as defined in RCW 9.94A.030. If the addition of a firearm  
17 enhancement increases the sentence so that it would exceed the  
18 statutory maximum for the offense, the portion of the sentence  
19 representing the enhancement may not be reduced.

20 (4) The following additional times shall be added to the  
21 presumptive sentence for felony crimes committed after July 23, 1995,  
22 if the offender or an accomplice was armed with a deadly weapon as  
23 defined in this chapter other than a firearm as defined in RCW 9.41.010  
24 and the offender is being sentenced for one of the crimes listed in  
25 this subsection as eligible for any deadly weapon enhancements based on  
26 the classification of the completed felony crime. If the offender is  
27 being sentenced for more than one offense, the deadly weapon  
28 enhancement or enhancements must be added to the total period of  
29 confinement for all offenses, regardless of which underlying offense is  
30 subject to a deadly weapon enhancement. If the offender or an  
31 accomplice was armed with a deadly weapon other than a firearm as  
32 defined in RCW 9.41.010 and the offender is being sentenced for an  
33 anticipatory offense under chapter 9A.28 RCW to commit one of the  
34 crimes listed in this subsection as eligible for any deadly weapon  
35 enhancements, the following additional times shall be added to the  
36 presumptive sentence determined under subsection (2) of this section  
37 based on the felony crime of conviction as classified under RCW  
38 9A.28.020:

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

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

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

10 (d) If the offender is being sentenced under (a), (b), and/or (c)  
11 of this subsection for any deadly weapon enhancements and the offender  
12 has previously been sentenced for any deadly weapon enhancements after  
13 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
14 subsection (3)(a), (b), and/or (c) of this section, or both, any and  
15 all deadly weapon enhancements under this subsection shall be twice the  
16 amount of the enhancement listed.

17 (e) Notwithstanding any other provision of law, any and all deadly  
18 weapon enhancements under this section are mandatory, shall be served  
19 in total confinement, and shall run consecutively to all other  
20 sentencing provisions, including other firearm or deadly weapon  
21 enhancements, for all offenses sentenced under this chapter.

22 (f) The deadly weapon enhancements in this section shall apply to  
23 all felony crimes except the following: Possession of a machine gun,  
24 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
25 unlawful possession of a firearm in the first and second degree, and  
26 use of a machine gun in a felony.

27 (g) If the presumptive sentence under this section exceeds the  
28 statutory maximum for the offense, the statutory maximum sentence shall  
29 be the presumptive sentence unless the offender is a persistent  
30 offender as defined in RCW 9.94A.030. If the addition of a deadly  
31 weapon enhancement increases the sentence so that it would exceed the  
32 statutory maximum for the offense, the portion of the sentence  
33 representing the enhancement may not be reduced.

34 (5) The following additional times shall be added to the  
35 presumptive sentence if the offender or an accomplice committed the  
36 offense while in a county jail or state correctional facility as that  
37 term is defined in this chapter and the offender is being sentenced for  
38 one of the crimes listed in this subsection. If the offender or an  
39 accomplice committed one of the crimes listed in this subsection while



1 in a county jail or state correctional facility as that term is defined  
2 in this chapter, and the offender is being sentenced for an  
3 anticipatory offense under chapter 9A.28 RCW to commit one of the  
4 crimes listed in this subsection, the following additional times shall  
5 be added to the presumptive sentence determined under subsection (2) of  
6 this section:

7 (a) Eighteen months for offenses committed under RCW  
8 69.50.401(a)(1) (i) or (ii) or 69.50.410;

9 (b) Fifteen months for offenses committed under RCW  
10 69.50.401(a)(1) (iii), (iv), and (v);

11 (c) Twelve months for offenses committed under RCW 69.50.401(d).  
12 For the purposes of this subsection, all of the real property of  
13 a state correctional facility or county jail shall be deemed to be part  
14 of that facility or county jail.

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

18 (7) An additional two years shall be added to the presumptive  
19 sentence for vehicular homicide committed while under the influence of  
20 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
21 prior offense as defined in RCW 46.61.5055.

22 (8) An additional one to three years shall be added to the  
23 presumptive sentence for any felony offense committed for the benefit  
24 of, at the direction of, or in association with a criminal street gang,  
25 with the intent to promote, further, or assist in criminal conduct by  
26 gang members, as provided in section 2 of this act.

27 **Sec. 5.** RCW 13.40.160 and 1997 c 338 s 25 and 1997 c 265 s 1 are  
28 each reenacted and amended to read as follows:

29 (1) The standard range disposition for a juvenile adjudicated of  
30 an offense is determined according to RCW 13.40.0357.

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

36 (b) When the court sentences an offender to a standard range as  
37 provided in RCW 13.40.0357 option A that includes a term of confinement  
38 exceeding thirty days, commitment shall be to the department for the

1 standard range of confinement, except as provided in subsections (2),  
2 (4), and (5) of this section.

3 (2) If the court concludes, and enters reasons for its conclusion,  
4 that disposition within the standard range would effectuate a manifest  
5 injustice the court shall impose a disposition outside the standard  
6 range, as indicated in option C of RCW 13.40.0357. The court's finding  
7 of manifest injustice shall be supported by clear and convincing  
8 evidence.

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

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

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

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

36 The examiner shall assess and report regarding the respondent's  
37 amenability to treatment and relative risk to the community. A  
38 proposed treatment plan shall be provided and shall include, at a  
39 minimum:

1 (a)(i) Frequency and type of contact between the offender and  
2 therapist;

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

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

8 (iv) Anticipated length of treatment; and

9 (v) Recommended crime-related prohibitions.

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

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

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

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

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

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

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

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

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

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

16 (viii) Comply with the conditions of any court-ordered probation  
17 bond; or

18 (ix) The court shall order that the offender may not attend the  
19 public or approved private elementary, middle, or high school attended  
20 by the victim or the victim's siblings. The parents or legal guardians  
21 of the offender are responsible for transportation or other costs  
22 associated with the offender's change of school that would otherwise be  
23 paid by the school district. The court shall send notice of the  
24 disposition and restriction on attending the same school as the victim  
25 or victim's siblings to the public or approved private school the  
26 juvenile will attend, if known, or if unknown, to the approved private  
27 schools and the public school district board of directors of the  
28 district in which the juvenile resides or intends to reside. This  
29 notice must be sent at the earliest possible date but not later than  
30 ten calendar days after entry of the disposition.

31 The sex offender treatment provider shall submit quarterly reports  
32 on the respondent's progress in treatment to the court and the parties.  
33 The reports shall reference the treatment plan and include at a minimum  
34 the following: Dates of attendance, respondent's compliance with  
35 requirements, treatment activities, the respondent's relative progress  
36 in treatment, and any other material specified by the court at the time  
37 of the disposition.

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

1           Except as provided in this subsection (4), after July 1, 1991,  
2 examinations and treatment ordered pursuant to this subsection shall  
3 only be conducted by sex offender treatment providers certified by the  
4 department of health pursuant to chapter 18.155 RCW. A sex offender  
5 therapist who examines or treats a juvenile sex offender pursuant to  
6 this subsection does not have to be certified by the department of  
7 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
8 offender has already moved to another state or plans to move to another  
9 state for reasons other than circumventing the certification  
10 requirements; (B) no certified providers are available for treatment  
11 within a reasonable geographical distance of the offender's home; and  
12 (C) the evaluation and treatment plan comply with this subsection (4)  
13 and the rules adopted by the department of health.

14           If the offender violates any condition of the disposition or the  
15 court finds that the respondent is failing to make satisfactory  
16 progress in treatment, the court may revoke the suspension and order  
17 execution of the disposition or the court may impose a penalty of up to  
18 thirty days' confinement for violating conditions of the disposition.  
19 The court may order both execution of the disposition and up to thirty  
20 days' confinement for the violation of the conditions of the  
21 disposition. The court shall give credit for any confinement time  
22 previously served if that confinement was for the offense for which the  
23 suspension is being revoked.

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

29           A disposition entered under this subsection (4) is not appealable  
30 under RCW 13.40.230.

31           (5) If the juvenile offender is subject to a standard range  
32 disposition of local sanctions or 15 to 36 weeks of confinement and has  
33 not committed an A- or B+ offense, the court may impose the disposition  
34 alternative under RCW 13.40.165.

35           (6) RCW 13.40.193 shall govern the disposition of any juvenile  
36 adjudicated of possessing a firearm in violation of RCW  
37 9.41.040(1)(b)(iii) or any crime in which a special finding is entered  
38 that the juvenile was armed with a firearm.

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

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

10          (~~(8)~~) (9) Except as provided under subsection (4) or (5) of this  
11 section or RCW 13.40.127, the court shall not suspend or defer the  
12 imposition or the execution of the disposition.

13          (~~(9)~~) (10) In no case shall the term of confinement imposed by  
14 the court at disposition exceed that to which an adult could be  
15 subjected for the same offense.

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