

**SUBSTITUTE HOUSE BILL 2603**

**State of Washington                      62nd Legislature                      2012 Regular Session**

**By House Early Learning & Human Services (originally sponsored by Representatives Goodman, Kagi, and Walsh)**

READ FIRST TIME 01/31/12.

1            AN ACT Relating to juvenile offender sentencing standards; and  
2 reenacting and amending RCW 13.40.0357.

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

4            **Sec. 1.** RCW 13.40.0357 and 2008 c 230 s 3 and 2008 c 158 s 1 are  
5 each reenacted and amended to read as follows:  
6

**DESCRIPTION AND OFFENSE CATEGORY**

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

**Arson and Malicious Mischief**

|   |                     |    |
|---|---------------------|----|
| A | Arson 1 (9A.48.020) | B+ |
| B | Arson 2 (9A.48.030) | C  |

|    |     |   |     |
|----|-----|---|-----|
| 1  | C   | Reckless Burning 1 (9A.48.040)                      | D   |
| 2  | D   | Reckless Burning 2 (9A.48.050)                      | E   |
| 3  | B   | Malicious Mischief 1 (9A.48.070)                    | C   |
| 4  | C   | Malicious Mischief 2 (9A.48.080)                    | D   |
| 5  | D   | Malicious Mischief 3 (9A.48.090(( <del>2</del> )(a) |     |
| 6  |     | and (e))))  | E   |
| 7  | ((E | Malicious Mischief 3 (9A.48.090(2)(b))              | E)) |
| 8  | E   | Tampering with Fire Alarm Apparatus                 |     |
| 9  |     | (9.40.100)  | E   |
| 10 | E   | Tampering with Fire Alarm Apparatus with            |     |
| 11 |     | Intent to Commit Arson (9.40.105)                   | E   |
| 12 | A   | Possession of Incendiary Device (9.40.120)          | B+  |
| 13 |     | <b>Assault and Other Crimes Involving</b>           |     |
| 14 |     | <b>Physical Harm</b>                                |     |
| 15 | A   | Assault 1 (9A.36.011)                               | B+  |
| 16 | B+  | Assault 2 (9A.36.021)                               | C+  |
| 17 | C+  | Assault 3 (9A.36.031)                               | D+  |
| 18 | D+  | Assault 4 (9A.36.041)                               | E   |
| 19 | B+  | Drive-By Shooting (9A.36.045)                       | C+  |
| 20 | D+  | Reckless Endangerment (9A.36.050)                   | E   |
| 21 | C+  | Promoting Suicide Attempt (9A.36.060)               | D+  |
| 22 | D+  | Coercion (9A.36.070)                                | E   |
| 23 | C+  | Custodial Assault (9A.36.100)                       | D+  |
| 24 |     | <b>Burglary and Trespass</b>                        |     |
| 25 | B+  | Burglary 1 (9A.52.020)                              | C+  |
| 26 | B   | Residential Burglary (9A.52.025)                    | C   |
| 27 | B   | Burglary 2 (9A.52.030)                              | C   |
| 28 | D   | Burglary Tools (Possession of) (9A.52.060)          | E   |
| 29 | D   | Criminal Trespass 1 (9A.52.070)                     | E   |
| 30 | E   | Criminal Trespass 2 (9A.52.080)                     | E   |
| 31 | C   | Mineral Trespass (78.44.330)                        | C   |
| 32 | C   | Vehicle Prowling 1 (9A.52.095)                      | D   |
| 33 | D   | Vehicle Prowling 2 (9A.52.100)                      | E   |
| 34 |     | <b>Drugs</b>  |     |
| 35 | E   | Possession/Consumption of Alcohol                   |     |
| 36 |     | (66.44.270)   | E   |

|    |    |  |    |
|----|----|--|----|
| 1  | C  | Illegally Obtaining Legend Drug            |    |
| 2  |    | (69.41.020)                                | D  |
| 3  | C+ | Sale, Delivery, Possession of Legend Drug  |    |
| 4  |    | with Intent to Sell (69.41.030(2)(a))      | D+ |
| 5  | E  | Possession of Legend Drug                  |    |
| 6  |    | (69.41.030(2)(b))                          | E  |
| 7  | B+ | Violation of Uniform Controlled Substances |    |
| 8  |    | Act - Narcotic, Methamphetamine, or        |    |
| 9  |    | Flunitrazepam Sale (69.50.401(2) (a) or    |    |
| 10 |    | (b))                                       | B+ |
| 11 | C  | Violation of Uniform Controlled Substances |    |
| 12 |    | Act - Nonnarcotic Sale (69.50.401(2)(c))   | C  |
| 13 | E  | Possession of Marihuana <40 grams          |    |
| 14 |    | (69.50.4014)                               | E  |
| 15 | C  | Fraudulently Obtaining Controlled          |    |
| 16 |    | Substance (69.50.403)                      | C  |
| 17 | C+ | Sale of Controlled Substance for Profit    |    |
| 18 |    | (69.50.410)                                | C+ |
| 19 | E  | Unlawful Inhalation (9.47A.020)            | E  |
| 20 | B  | Violation of Uniform Controlled Substances |    |
| 21 |    | Act - Narcotic, Methamphetamine, or        |    |
| 22 |    | Flunitrazepam Counterfeit Substances       |    |
| 23 |    | (69.50.4011(2) (a) or (b))                 | B  |
| 24 | C  | Violation of Uniform Controlled Substances |    |
| 25 |    | Act - Nonnarcotic Counterfeit Substances   |    |
| 26 |    | (69.50.4011(2) (c), (d), or (e))           | C  |
| 27 | C  | Violation of Uniform Controlled Substances |    |
| 28 |    | Act - Possession of a Controlled Substance |    |
| 29 |    | (69.50.4013)                               | C  |
| 30 | C  | Violation of Uniform Controlled Substances |    |
| 31 |    | Act - Possession of a Controlled Substance |    |
| 32 |    | (69.50.4012)                               | C  |
| 33 |    | <b>Firearms and Weapons</b>                |    |
| 34 | B  | Theft of Firearm (9A.56.300)               | C  |
| 35 | B  | Possession of Stolen Firearm (9A.56.310)   | C  |
| 36 | E  | Carrying Loaded Pistol Without Permit      |    |
| 37 |    | (9.41.050)                                 | E  |

|    |    |   |    |
|----|----|---|----|
| 1  | C  | Possession of Firearms by Minor (<18)     |    |
| 2  |    | (9.41.040(2)(a)(iii))                     | C  |
| 3  | D+ | Possession of Dangerous Weapon            |    |
| 4  |    | (9.41.250)                                | E  |
| 5  | D  | Intimidating Another Person by use of     |    |
| 6  |    | Weapon (9.41.270)                         | E  |
| 7  |    | <b>Homicide</b>                           |    |
| 8  | A+ | Murder 1 (9A.32.030)                      | A  |
| 9  | A+ | Murder 2 (9A.32.050)                      | B+ |
| 10 | B+ | Manslaughter 1 (9A.32.060)                | C+ |
| 11 | C+ | Manslaughter 2 (9A.32.070)                | D+ |
| 12 | B+ | Vehicle Homicide (46.61.520)              | C+ |
| 13 |    | <b>Kidnapping</b>                         |    |
| 14 | A  | Kidnap 1 (9A.40.020)                      | B+ |
| 15 | B+ | Kidnap 2 (9A.40.030)                      | C+ |
| 16 | C+ | Unlawful Imprisonment (9A.40.040)         | D+ |
| 17 |    | <b>Obstructing Governmental Operation</b> |    |
| 18 | D  | Obstructing a Law Enforcement Officer     |    |
| 19 |    | (9A.76.020)                               | E  |
| 20 | E  | Resisting Arrest (9A.76.040)              | E  |
| 21 | B  | Introducing Contraband 1 (9A.76.140)      | C  |
| 22 | C  | Introducing Contraband 2 (9A.76.150)      | D  |
| 23 | E  | Introducing Contraband 3 (9A.76.160)      | E  |
| 24 | B+ | Intimidating a Public Servant (9A.76.180) | C+ |
| 25 | B+ | Intimidating a Witness (9A.72.110)        | C+ |
| 26 |    | <b>Public Disturbance</b>                 |    |
| 27 | C+ | Riot with Weapon (9A.84.010(2)(b))        | D+ |
| 28 | D+ | Riot Without Weapon (9A.84.010(2)(a))     | E  |
| 29 | E  | Failure to Disperse (9A.84.020)           | E  |
| 30 | E  | Disorderly Conduct (9A.84.030)            | E  |
| 31 |    | <b>Sex Crimes</b>                         |    |
| 32 | A  | Rape 1 (9A.44.040)                        | B+ |
| 33 | A- | Rape 2 (9A.44.050)                        | B+ |
| 34 | C+ | Rape 3 (9A.44.060)                        | D+ |
| 35 | A- | Rape of a Child 1 (9A.44.073)             | B+ |
| 36 | B+ | Rape of a Child 2 (9A.44.076)             | C+ |

|    |    |   |    |
|----|----|---|----|
| 1  | B  | Incest 1 (9A.64.020(1))                       | C  |
| 2  | C  | Incest 2 (9A.64.020(2))                       | D  |
| 3  | D+ | Indecent Exposure (Victim <14)                |    |
| 4  |    | (9A.88.010)                                   | E  |
| 5  | E  | Indecent Exposure (Victim 14 or over)         |    |
| 6  |    | (9A.88.010)                                   | E  |
| 7  | B+ | Promoting Prostitution 1 (9A.88.070)          | C+ |
| 8  | C+ | Promoting Prostitution 2 (9A.88.080)          | D+ |
| 9  | E  | O & A (Prostitution) (9A.88.030)              | E  |
| 10 | B+ | Indecent Liberties (9A.44.100)                | C+ |
| 11 | A- | Child Molestation 1 (9A.44.083)               | B+ |
| 12 | B  | Child Molestation 2 (9A.44.086)               | C+ |
| 13 | C  | Failure to Register as a Sex Offender         |    |
| 14 |    | (( <del>9A.44.130</del> ) <u>9A.44.132</u> )  | D  |
| 15 |    | <b>Theft, Robbery, Extortion, and Forgery</b> |    |
| 16 | B  | Theft 1 (9A.56.030)                           | C  |
| 17 | C  | Theft 2 (9A.56.040)                           | D  |
| 18 | D  | Theft 3 (9A.56.050)                           | E  |
| 19 | B  | Theft of Livestock 1 and 2 (9A.56.080 and     |    |
| 20 |    | 9A.56.083)                                    | C  |
| 21 | C  | Forgery (9A.60.020)                           | D  |
| 22 | A  | Robbery 1 (9A.56.200)                         | B+ |
| 23 | B+ | Robbery 2 (9A.56.210)                         | C+ |
| 24 | B+ | Extortion 1 (9A.56.120)                       | C+ |
| 25 | C+ | Extortion 2 (9A.56.130)                       | D+ |
| 26 | C  | Identity Theft 1 (9.35.020(2))                | D  |
| 27 | D  | Identity Theft 2 (9.35.020(3))                | E  |
| 28 | D  | Improperly Obtaining Financial Information    |    |
| 29 |    | (9.35.010)                                    | E  |
| 30 | B  | Possession of a Stolen Vehicle (9A.56.068)    | C  |
| 31 | B  | Possession of Stolen Property 1               |    |
| 32 |    | (9A.56.150)                                   | C  |
| 33 | C  | Possession of Stolen Property 2               |    |
| 34 |    | (9A.56.160)                                   | D  |
| 35 | D  | Possession of Stolen Property 3               |    |
| 36 |    | (9A.56.170)                                   | E  |

|    |    |  |    |
|----|----|--|----|
| 1  | B  | Taking Motor Vehicle Without Permission    |    |
| 2  |    | 1 (9A.56.070)                              | C  |
| 3  | C  | Taking Motor Vehicle Without Permission    |    |
| 4  |    | 2 (9A.56.075)                              | D  |
| 5  | B  | Theft of a Motor Vehicle (9A.56.065)       | C  |
| 6  |    | <b>Motor Vehicle Related Crimes</b>        |    |
| 7  | E  | Driving Without a License (46.20.005)      | E  |
| 8  | B+ | Hit and Run - Death (46.52.020(4)(a))      | C+ |
| 9  | C  | Hit and Run - Injury (46.52.020(4)(b))     | D  |
| 10 | D  | Hit and Run-Attended (46.52.020(5))        | E  |
| 11 | E  | Hit and Run-Unattended (46.52.010)         | E  |
| 12 | C  | Vehicular Assault (46.61.522)              | D  |
| 13 | C  | Attempting to Elude Pursuing Police        |    |
| 14 |    | Vehicle (46.61.024)                        | D  |
| 15 | E  | Reckless Driving (46.61.500)               | E  |
| 16 | D  | Driving While Under the Influence          |    |
| 17 |    | (46.61.502 and 46.61.504)                  | E  |
| 18 | B+ | Felony Driving While Under the Influence   |    |
| 19 |    | (46.61.502(6))                             | B  |
| 20 | B+ | Felony Physical Control of a Vehicle While |    |
| 21 |    | Under the Influence (46.61.504(6))         | B  |
| 22 |    | <b>Other</b>                               |    |
| 23 | B  | Animal Cruelty 1 (16.52.205)               | C  |
| 24 | B  | Bomb Threat (9.61.160)                     | C  |
| 25 | C  | Escape 1 <sup>1</sup> (9A.76.110)          | C  |
| 26 | C  | Escape 2 <sup>1</sup> (9A.76.120)          | C  |
| 27 | D  | Escape 3 (9A.76.130)                       | E  |
| 28 | E  | Obscene, Harassing, Etc., Phone Calls      |    |
| 29 |    | (9.61.230)                                 | E  |
| 30 | A  | Other Offense Equivalent to an Adult Class |    |
| 31 |    | A Felony                                   | B+ |
| 32 | B  | Other Offense Equivalent to an Adult Class |    |
| 33 |    | B Felony                                   | C  |
| 34 | C  | Other Offense Equivalent to an Adult Class |    |
| 35 |    | C Felony                                   | D  |

- 1 D Other Offense Equivalent to an Adult Gross
- 2 Misdemeanor E
- 3 E Other Offense Equivalent to an Adult
- 4 Misdemeanor E
- 5 V Violation of Order of Restitution,
- 6 Community Supervision, or Confinement
- 7 (13.40.200)<sup>2</sup> V

8 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
 9 and the standard range is established as follows:

- 10 1st escape or attempted escape during 12-month period - 4 weeks
- 11 confinement
- 12 2nd escape or attempted escape during 12-month period - 8 weeks
- 13 confinement
- 14 3rd and subsequent escape or attempted escape during 12-month
- 15 period - 12 weeks confinement

16 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
 17 it may impose a penalty of up to 30 days of confinement.

18 **JUVENILE SENTENCING STANDARDS**

19 This schedule must be used for juvenile offenders. The court may  
 20 select sentencing option A, B, C, D, or RCW 13.40.167.

21 **((OPTION A**  
 22 **JUVENILE OFFENDER SENTENCING GRID**  
 23 **STANDARD RANGE**

24 A+ 180 WEEKS TO AGE 21 YEARS

25 A 103 WEEKS TO 129 WEEKS

|    |    |           |       |        |         |
|----|----|-----------|-------|--------|---------|
| 26 | A- | 15-36     | 52-65 | 80-100 | 103-129 |
| 27 |    | WEEKS     | WEEKS | WEEKS  | WEEKS   |
| 28 |    | EXCEPT    |       |        |         |
| 29 |    | 30-40     |       |        |         |
| 30 |    | WEEKS FOR |       |        |         |
| 31 |    | 15-17     |       |        |         |
| 32 |    | YEAR OLDS |       |        |         |

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

| Offense                | WEEKS  | WEEKS                 | WEEKS       | WEEKS       |  |
|------------------------|--|-----------------------|-------------|-------------|--|
| Category               |  |                       |             |             |  |
| B LOCAL SANCTIONS (LS) |  | 15-36 WEEKS           |             | 52-65 WEEKS |  |
| C+ LS                  |  |                       | 15-36 WEEKS |             |  |
| C LS                   |  |                       |             | 15-36 WEEKS |  |
| D+ LS                  | Local Sanctions:<br>0 to 30 Days   |                       |             |             |  |
| D LS                   | 0 to 12 Months Community Supervision<br>0 to 150 Hours Community Restitution |                       |             |             |  |
| E LS                   | \$0 to \$500 Fine  |                       |             |             |  |
|                        |  | 0                     | 1           | 2           |  |
|                        |  |                       | 3           | 4           |  |
|                        |  |                       |             | or more     |  |
|                        |  | PRIOR ADJUDICATIONS)) |             |             |  |

OPTION A  
JUVENILE OFFENDER SENTENCING GRID  
STANDARD RANGE

|                      |   |                    |                     |                      |                      |                      |
|----------------------|---|--------------------|---------------------|----------------------|----------------------|----------------------|
| A+                   | <u>180 weeks to age 21 for all category A+ offenses</u> |                    |                     |                      |                      |                      |
| A                    | <u>103-129 weeks for all category A offenses</u>        |                    |                     |                      |                      |                      |
| A-                   | <u>15-36 weeks</u>                                      | <u>52-65 weeks</u> | <u>80-100 weeks</u> | <u>103-129 weeks</u> | <u>103-129 weeks</u> |                      |
|                      | <u>Except 30-40 weeks</u>                               |                    |                     |                      |                      |                      |
|                      | <u>for 15 to 17 year olds</u>                           |                    |                     |                      |                      |                      |
| <u>CURRENT</u>       | <u>B+</u>   | <u>15-36 weeks</u> | <u>15-36 weeks</u>  | <u>52-65 weeks</u>   | <u>80-100 weeks</u>  | <u>103-129 weeks</u> |
| <u>OFFENSE</u>       | <u>B</u>  | <u>LS</u>          | <u>LS</u>           | <u>15-36 weeks</u>   | <u>15-36 weeks</u>   | <u>52-65 weeks</u>   |
| <u>CATEGORY</u>      | <u>C+</u>   | <u>LS</u>          | <u>LS</u>           | <u>LS</u>            | <u>15-36 weeks</u>   | <u>15-36 weeks</u>   |
|                      | <u>C</u>  | <u>LS</u>          | <u>LS</u>           | <u>LS</u>            | <u>LS</u>            | <u>15-36 weeks</u>   |
|                      | <u>D+</u>   | <u>LS</u>          | <u>LS</u>           | <u>LS</u>            | <u>LS</u>            | <u>LS</u>            |
|                      | <u>D</u>  | <u>LS</u>          | <u>LS</u>           | <u>LS</u>            | <u>LS</u>            | <u>LS</u>            |
|                      | <u>E</u>  | <u>LS</u>          | <u>LS</u>           | <u>LS</u>            | <u>LS</u>            | <u>LS</u>            |
| <u>PRIOR</u>         |   | <u>0</u>           | <u>1</u>            | <u>2</u>             | <u>3</u>             | <u>4 or more</u>     |
| <u>ADJUDICATIONS</u> |   |                    |                     |                      |                      |                      |

1 NOTE: References in the grid to days or weeks mean periods of  
2 confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

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

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

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

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

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

19 OR

20 **OPTION B**

21 **SUSPENDED DISPOSITION ALTERNATIVE**

22 (1) If the offender is subject to a standard range disposition  
23 involving confinement by the department, the court may impose the  
24 standard range and suspend the disposition on condition that the  
25 offender comply with one or more local sanctions and any educational or  
26 treatment requirement. The treatment programs provided to the offender  
27 must be either research-based best practice programs as identified by  
28 the Washington state institute for public policy or the joint  
29 legislative audit and review committee, or for chemical dependency  
30 treatment programs or services, they must be evidence-based or  
31 research-based best practice programs. For the purposes of this  
32 subsection:

33 (a) "Evidence-based" means a program or practice that has had  
34 multiple site random controlled trials across heterogeneous populations  
35 demonstrating that the program or practice is effective for the  
36 population; and

1 (b) "Research-based" means a program or practice that has some  
2 research demonstrating effectiveness, but that does not yet meet the  
3 standard of evidence-based practices.

4 (2) If the offender fails to comply with the suspended disposition,  
5 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke  
6 the suspended disposition and order the disposition's execution.

7 (3) An offender is ineligible for the suspended disposition option  
8 under this section if the offender is:

9 (a) Adjudicated of an A+ offense;

10 (b) Fourteen years of age or older and is adjudicated of one or  
11 more of the following offenses:

12 (i) A class A offense, or an attempt, conspiracy, or solicitation  
13 to commit a class A offense;

14 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

15 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
16 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
17 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
18 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
19 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
20 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
21 witness (RCW 9A.72.110), violation of the uniform controlled substances  
22 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),  
23 when the offense includes infliction of bodily harm upon another or  
24 when during the commission or immediate withdrawal from the offense the  
25 respondent was armed with a deadly weapon;

26 (c) Ordered to serve a disposition for a firearm violation under  
27 RCW 13.40.193; or

28 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

29 **OR**

30 **OPTION C**

31 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

32 If the juvenile offender is subject to a standard range disposition  
33 of local sanctions or 15 to 36 weeks of confinement and has not  
34 committed an A- or B+ offense, the court may impose a disposition under  
35 RCW 13.40.160(4) and 13.40.165.

36 **OR**

**OPTION D**

**MANIFEST INJUSTICE**

1  
2  
3  
4  
5

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**--- END ---**