
HOUSE BILL 2467

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Morris, Long, Mastin, Rayburn, Fuhrman, Orr, Karahalios, Brough, Johanson, Cooke, Lisk, Dyer, Chandler, Chappell, Quall, Jones, Eide and Springer

Read first time 01/14/94. Referred to Committee on Corrections.

1 AN ACT Relating to sentencing of juvenile offenders; amending RCW
2 13.40.020, 13.40.027, 13.40.0357, 13.40.150, 13.40.160, and 13.40.230;
3 creating a new section; and prescribing penalties.

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

5 **Sec. 1.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read
6 as follows:

7 For the purposes of this chapter:

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

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

11 (b) Manslaughter in the first degree; or

12 (c) Assault in the second degree, extortion in the first degree,
13 child molestation in the second degree, kidnapping in the second
14 degree, robbery in the second degree, residential burglary, or burglary
15 in the second degree, where such offenses include the infliction of
16 bodily harm upon another or where during the commission of or immediate
17 withdrawal from such an offense the perpetrator is armed with a deadly
18 weapon or firearm as defined in RCW 9A.04.110;

1 (2) "Community service" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender as punishment for committing an offense. Community service
4 may be performed through public or private organizations or through
5 work crews;

6 (3) "Community supervision" means an order of disposition by the
7 court of an adjudicated youth not committed to the department. A
8 community supervision order for a single offense may be for a period of
9 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
10 one year for other offenses. Community supervision is an
11 individualized program comprised of one or more of the following:

12 (a) Community-based sanctions;

13 (b) Community-based rehabilitation;

14 (c) Monitoring and reporting requirements;

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

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

18 (b) Community service not to exceed one hundred fifty hours of
19 service;

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

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

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

1 facilities. The department may operate or contract to operate
2 detention facilities for juveniles committed to the department.
3 Pretrial confinement or confinement of less than thirty-one days
4 imposed as part of a disposition or modification order may be served
5 consecutively or intermittently, in the discretion of the court and may
6 be served in a detention group home, detention foster home, or with
7 electronic monitoring. Detention group homes and detention foster
8 homes used for confinement shall not also be used for the placement of
9 dependent children. Confinement in detention group homes and detention
10 foster homes and electronic monitoring are subject to available funds;

11 (8) "Court", when used without further qualification, means the
12 juvenile court judge(s) or commissioner(s);

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

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

19 (b) The criminal complaint was diverted by a prosecutor pursuant to
20 the provisions of this chapter on agreement of the respondent and after
21 an advisement to the respondent that the criminal complaint would be
22 considered as part of the respondent's criminal history;

23 (10) "Department" means the department of social and health
24 services;

25 (11) "Detention facility" means a county facility for the physical
26 confinement of a juvenile alleged to have committed an offense or an
27 adjudicated offender subject to a disposition or modification order;

28 (12) "Diversion unit" means any probation counselor who enters into
29 a diversion agreement with an alleged youthful offender, or any other
30 person or entity except a law enforcement official or entity, with whom
31 the juvenile court administrator has contracted to arrange and
32 supervise such agreements pursuant to RCW 13.40.080, or any person or
33 entity specially funded by the legislature to arrange and supervise
34 diversion agreements in accordance with the requirements of this
35 chapter;

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

1 (14) "Juvenile," "youth," and "child" mean any individual who is
2 under the chronological age of eighteen years and who has not been
3 previously transferred to adult court;

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

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

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

14 (18) "Minor (~~(or first)~~) offender" means a person sixteen years of
15 age or younger whose current offense(s) and criminal history fall
16 entirely within one of the following categories:

17 (a) Four misdemeanors;

18 (b) Two misdemeanors and one gross misdemeanor;

19 (c) One misdemeanor and two gross misdemeanors;

20 (d) Three gross misdemeanors(~~(;~~

21 ~~(e) One class C felony except manslaughter in the second degree and
22 one misdemeanor or gross misdemeanor;~~

23 ~~(f) One class B felony except: Any felony which constitutes an
24 attempt to commit a class A felony; manslaughter in the first degree;
25 assault in the second degree; extortion in the first degree; indecent
26 liberties; kidnapping in the second degree; robbery in the second
27 degree; burglary in the second degree; residential burglary; vehicular
28 homicide; or arson in the second degree)).~~

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

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

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

37 (21) "Restitution" means financial reimbursement by the offender to
38 the victim, and shall be limited to easily ascertainable damages for
39 injury to or loss of property, actual expenses incurred for medical

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

8 (22) "Secretary" means the secretary of the department of social
9 and health services;

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

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

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

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

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

25 **Sec. 2.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
26 as follows:

27 (1) It is the responsibility of the commission to: (a)(i) Evaluate
28 the effectiveness of existing disposition standards and related
29 statutes in implementing policies set forth in RCW 13.40.010 generally,
30 (ii) specifically review the guidelines relating to the confinement of
31 minor (~~and first~~) offenders as well as the use of diversion, and
32 (iii) review the application of current and proposed juvenile
33 sentencing standards and guidelines for potential adverse impacts on
34 the sentencing outcomes of racial and ethnic minority youth; (b)
35 solicit the comments and suggestions of the juvenile justice community
36 concerning disposition standards; and (c) make recommendations to the
37 legislature regarding revisions or modifications of the disposition
38 standards in accordance with RCW 13.40.030. The evaluations shall be

1 submitted to the legislature on December 1 of each even-numbered year
2 thereafter.

3 (2) It is the responsibility of the department to: (a) Provide the
4 commission with available data concerning the implementation of the
5 disposition standards and related statutes and their effect on the
6 performance of the department's responsibilities relating to juvenile
7 offenders; (b) at the request of the commission, provide technical and
8 administrative assistance to the commission in the performance of its
9 responsibilities; and (c) provide the commission and legislature with
10 recommendations for modification of the disposition standards.

11 **Sec. 3.** RCW 13.40.0357 and 1989 c 407 s 7 are each amended to read
12 as follows:

13 SCHEDULE A
14 DESCRIPTION AND OFFENSE CATEGORY

15		JUVENILE	
16	JUVENILE	DISPOSITION	
17	DISPOSITION	CATEGORY FOR ATTEMPT,	
18	OFFENSE	BAILJUMP, CONSPIRACY,	
19	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
20
21		Arson and Malicious Mischief	
22	A	Arson 1 (9A.48.020)	B+
23	B	Arson 2 (9A.48.030)	C
24	C	Reckless Burning 1 (9A.48.040)	D
25	D	Reckless Burning 2 (9A.48.050)	E
26	B	Malicious Mischief 1 (9A.48.070)	C
27	C	Malicious Mischief 2 (9A.48.080)	D
28	D	Malicious Mischief 3 (<\$50 is	
29		E class) (9A.48.090)	E
30	E	Tampering with Fire Alarm	
31		Apparatus (9.40.100)	E
32	A	Possession of Incendiary Device	
33		(9.40.120)	B+

1		Assault and Other Crimes	
2		Involving Physical Harm	
3	A	Assault 1 (9A.36.011)	B+
4	B+	Assault 2 (9A.36.021)	C+
5	C+	Assault 3 (9A.36.031)	D+
6	D+	Assault 4 (9A.36.041)	E
7	D+	Reckless Endangerment	
8		(9A.36.050)	E
9	C+	Promoting Suicide Attempt	
10		(9A.36.060)	D+
11	D+	Coercion (9A.36.070)	E
12	C+	Custodial Assault (9A.36.100)	D+
13		Burglary and Trespass	
14	B+	Burglary 1 (9A.52.020)	C+
15	B	Burglary 2 (9A.52.030)	C
16	D	Burglary Tools (Possession of)	
17		(9A.52.060)	E
18	D	Criminal Trespass 1 (9A.52.070)	E
19	E	Criminal Trespass 2 (9A.52.080)	E
20	D	Vehicle Prowling (9A.52.100)	E
21		Drugs	
22	E	Possession/Consumption of Alcohol	
23		(66.44.270)	E
24	C	Illegally Obtaining Legend Drug	
25		(69.41.020)	D
26	C+	Sale, Delivery, Possession of Legend	
27		Drug with Intent to Sell	
28		(69.41.030)	D+
29	E	Possession of Legend Drug	
30		(69.41.030)	E
31	B+	Violation of Uniform Controlled	
32		Substances Act - Narcotic Sale	
33		(69.50.401(a)(1)(i))	B+
34	C	Violation of Uniform Controlled	
35		Substances Act - Nonnarcotic Sale	
36		(69.50.401(a)(1)(ii))	C

1	E	Possession of Marihuana <40 grams	
2		(69.50.401(e))	E
3	C	Fraudulently Obtaining Controlled	
4		Substance (69.50.403)	C
5	C+	Sale of Controlled Substance	
6		for Profit (69.50.410)	C+
7	E	((Glue Sniffing (9.47A.050))	E
8		<u>Unlawful Inhalation (9.47A.020)</u>	
9	B	Violation of Uniform Controlled	
10		Substances Act - Narcotic	
11		Counterfeit Substances	
12		(69.50.401(b)(1)(i))	B
13	C	Violation of Uniform Controlled	
14		Substances Act - Nonnarcotic	
15		Counterfeit Substances	
16		(69.50.401(b)(1) (ii), (iii), (iv))	C
17	C	Violation of Uniform Controlled	
18		Substances Act - Possession of a	
19		Controlled Substance	
20		(69.50.401(d))	C
21	C	Violation of Uniform Controlled	
22		Substances Act - Possession of a	
23		Controlled Substance	
24		(69.50.401(c))	C
25		Firearms and Weapons	
26	((C+	Committing Crime when Armed	
27		(9.41.025)	D+))
28	E	Carrying Loaded Pistol Without	
29		Permit (9.41.050)	E
30	E	Use of Firearms by Minor (<14)	
31		(9.41.240)	E
32	D+	Possession of Dangerous Weapon	
33		(9.41.250)	E
34	D	Intimidating Another Person by use	
35		of Weapon (9.41.270)	E
36		Homicide	
37	A+	Murder 1 (9A.32.030)	A

1	A+	Murder 2 (9A.32.050)	B+
2	B+	Manslaughter 1 (9A.32.060)	C+
3	C+	Manslaughter 2 (9A.32.070)	D+
4	B+	Vehicular Homicide (46.61.520)	C+
5		Kidnapping	
6	A	Kidnap 1 (9A.40.020)	B+
7	B+	Kidnap 2 (9A.40.030)	C+
8	C+	Unlawful Imprisonment	
9		(9A.40.040)	D+
10	((D	Custodial Interference	
11		(9A.40.050)	E))
12		Obstructing Governmental Operation	
13	E	Obstructing a Public Servant	
14		(9A.76.020)	E
15	E	Resisting Arrest (9A.76.040)	E
16	B	Introducing Contraband 1	
17		(9A.76.140)	C
18	C	Introducing Contraband 2	
19		(9A.76.150)	D
20	E	Introducing Contraband 3	
21		(9A.76.160)	E
22	B+	Intimidating a Public Servant	
23		(9A.76.180)	C+
24	B+	Intimidating a Witness	
25		(9A.72.110)	C+
26	((E	Criminal Contempt	
27		(9.23.010)	E))
28		Public Disturbance	
29	C+	Riot with Weapon (9A.84.010)	D+
30	D+	Riot Without Weapon	
31		(9A.84.010)	E
32	E	Failure to Disperse (9A.84.020)	E
33	E	Disorderly Conduct (9A.84.030)	E
34		Sex Crimes	
35	A	Rape 1 (9A.44.040)	B+

1	A-	Rape 2 (9A.44.050)	B+
2	C+	Rape 3 (9A.44.060)	D+
3	A-	Rape of a Child 1 (9A.44.073)	B+
4	B	Rape of a Child 2 (9A.44.076)	C+
5	B	Incest 1 (9A.64.020(1))	C
6	C	Incest 2 (9A.64.020(2))	D
7	D+	((Public Indecency)) <u>Indecent Exposure</u>	
8		(Victim <14) (9A.88.010)	E
9	E	((Public Indecency)) <u>Indecent Exposure</u>	
10		(Victim 14 or over) (9A.88.010)	E
11	B+	Promoting Prostitution 1	
12		(9A.88.070)	C+
13	C+	Promoting Prostitution 2	
14		(9A.88.080)	D+
15	E	O & A (Prostitution) (9A.88.030)	E
16	B+	Indecent Liberties (9A.44.100)	C+
17	B+	Child Molestation 1 (9A.44.083)	C+
18	C+	Child Molestation 2 (9A.44.086)	C
19		Theft, Robbery, Extortion, and Forgery	
20	B	Theft 1 (9A.56.030)	C
21	C	Theft 2 (9A.56.040)	D
22	D	Theft 3 (9A.56.050)	E
23	B	Theft of Livestock (9A.56.080)	C
24	C	Forgery (((9A.56.020))) <u>(9A.60.020)</u>	D
25	A	Robbery 1 (9A.56.200)	B+
26	B+	Robbery 2 (9A.56.210)	C+
27	B+	Extortion 1 (9A.56.120)	C+
28	C+	Extortion 2 (9A.56.130)	D+
29	B	Possession of Stolen Property 1	
30		(9A.56.150)	C
31	C	Possession of Stolen Property 2	
32		(9A.56.160)	D
33	D	Possession of Stolen Property 3	
34		(9A.56.170)	E
35	C	Taking Motor Vehicle Without	
36		Owner's Permission (9A.56.070)	D

1		Motor Vehicle Related Crimes	
2	E	Driving Without a License	
3		(46.20.021)	E
4	C	Hit and Run - Injury	
5		(46.52.020(4))	D
6	D	Hit and Run-Attended	
7		(46.52.020(5))	E
8	E	Hit and Run-Unattended	
9		(46.52.010)	E
10	C	Vehicular Assault (46.61.522)	D
11	C	Attempting to Elude Pursuing	
12		Police Vehicle (46.61.024)	D
13	E	Reckless Driving (46.61.500)	E
14	D	Driving While Under the Influence	
15		(46.61.515)	E
16		((B+ Negligent Homicide by Motor	
17		Vehicle (46.61.520) C+))	
18	D	Vehicle Prowling (9A.52.100)	E
19	C	Taking Motor Vehicle Without	
20		Owner's Permission (9A.56.070)	D
21		Other	
22	B	Bomb Threat (9.61.160)	C
23	C	Escape 1 (9A.76.110)	C
24	C	Escape 2 (9A.76.120)	C
25	D	Escape 3 (9A.76.130)	E
26	C	Failure to Appear in Court	
27		(10.19.130)	D
28		((E Tampering with Fire Alarm	
29		Apparatus (9.40.100) E))	
30	E	Obscene, Harassing, Etc.,	
31		Phone Calls (9.61.230)	E
32	A	Other Offense Equivalent to an	
33		Adult Class A Felony	B+
34	B	Other Offense Equivalent to an	
35		Adult Class B Felony	C
36	C	Other Offense Equivalent to an	
37		Adult Class C Felony	D

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

8 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 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 SCHEDULE B
19 PRIOR OFFENSE INCREASE FACTOR

20 For use with all CURRENT OFFENSES occurring on or after July 1,
21 1989.

22 TIME SPAN

23 OFFENSE	0-12	13-24	25 Months
24 CATEGORY	Months	Months	or More
25			
26 A+	.9	.9	.9
27 A	.9	.8	.6
28 A-	.9	.8	.5
29 B+	.9	.7	.4
30 B	.9	.6	.3
31 C+	.6	.3	.2

1	C	.5	.2	.2
2	D+	.3	.2	.1
3	D	.2	.1	.1
4	E	.1	.1	.1

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

9 SCHEDULE C
10 CURRENT OFFENSE POINTS

11 For use with all CURRENT OFFENSES occurring on or after July 1,
12 1989.

13 AGE

14 OFFENSE	12 &						
15 CATEGORY	Under	13	14	15	16	17	
16							
17 A+		STANDARD	RANGE	180-224	WEEKS		
18 A	250	300	350	375	375	375	
19 A-	150	150	150	200	200	200	
20 B+	110	110	120	130	140	150	
21 B	45	45	50	50	57	57	
22 C+	44	44	49	49	55	55	
23 C	40	40	45	45	50	50	
24 D+	16	18	20	22	24	26	
25 D	14	16	18	20	22	24	
26 E	4	4	4	6	8	10	

27 JUVENILE SENTENCING STANDARDS
28 SCHEDULE D-1

29 This schedule may only be used for ((minor/first)) minor offenders.
30 After the determination is made that a youth is a ((minor/first)) minor

1 offender, the court has the discretion to select sentencing option A,
2 B, or C.

3 ((MINOR/FIRST)) MINOR OFFENDER

4 OPTION A
5 STANDARD RANGE

6		Community	Community	Service	
7	Points	Supervision	Hours	Fine	
9	1-9	0-3 months	and/or 0-8	and/or 0-\$10	
10	10-19	0-3 months	and/or 0-8	and/or 0-\$10	
11	20-29	0-3 months	and/or 0-16	and/or 0-\$10	
12	30-39	0-3 months	and/or 8-24	and/or 0-\$25	
13	40-49	3-6 months	and/or 16-32	and/or 0-\$25	
14	50-59	3-6 months	and/or 24-40	and/or 0-\$25	
15	60-69	6-9 months	and/or 32-48	and/or 0-\$50	
16	70-79	6-9 months	and/or 40-56	and/or 0-\$50	
17	80-89	9-12 months	and/or 48-64	and/or 0-\$100	
18	90-109	9-12 months	and/or 56-72	and/or 0-\$100	

19 OR

20 OPTION B
21 STATUTORY OPTION

22 0-12 Months Community Supervision
23 0-150 Hours Community Service
24 0-100 Fine

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

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OR

OPTION C
MANIFEST INJUSTICE

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

JUVENILE SENTENCING STANDARDS
SCHEDULE D-2

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

MIDDLE OFFENDER

OPTION A
STANDARD RANGE

Points	Community Supervision	Community Service Hours	Fine	Confinement Days	Confinement Weeks
.....					
((1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	and/or 0
10-19	0-3))				
<u>1-19</u>	<u>0-12</u> months	and/or 0-8	and/or 0-\$10	and/or 0	
20-29	((0-3)) <u>0-12</u> months	and/or 0-16	and/or 0-\$10	and/or 0	
30-39	((0-3)) <u>0-12</u> months	and/or 8-24	and/or 0-\$25	and/or ((2-4))	<u>2-10</u>
40-49	((3-6)) <u>3-12</u> months	and/or 16-32	and/or 0-\$25	and/or ((2-4))	<u>2-10</u>
50-59	((3-6)) <u>3-12</u> months	and/or 24-40	and/or 0-\$25	and/or 5-10	
60-69	((6-9)) <u>6-12</u> months	and/or 32-48	and/or 0-\$50	and/or ((5-10))	

1 to a maximum term and the provisions of RCW (~~(13.40.030(5), as now or~~
2 ~~hereafter amended,~~) 13.40.030(2) shall be used to determine the range.

3 JUVENILE SENTENCING STANDARDS
4 SCHEDULE D-3

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

8 SERIOUS OFFENDER
9 OPTION A
10 STANDARD RANGE

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

21 OR

22
23 OPTION B
24 MANIFEST INJUSTICE

25 A disposition outside the standard range shall be determined and shall
26 be comprised of confinement or community supervision or a combination
27 thereof. When a judge finds a manifest injustice and imposes a
28 sentence of confinement exceeding 30 days, the court shall sentence the
29 juvenile to a maximum term, and the provisions of RCW (~~(13.40.030(5),~~
30 ~~as now or hereafter amended,~~) 13.40.030(2) shall be used to determine
31 the range.

1 **Sec. 4.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
2 read as follows:

3 (1) In disposition hearings all relevant and material evidence,
4 including oral and written reports, may be received by the court and
5 may be relied upon to the extent of its probative value, even though
6 such evidence may not be admissible in a hearing on the information.
7 The youth or the youth's counsel and the prosecuting attorney shall be
8 afforded an opportunity to examine and controvert written reports so
9 received and to cross-examine individuals making reports when such
10 individuals are reasonably available, but sources of confidential
11 information need not be disclosed. The prosecutor and counsel for the
12 juvenile may submit recommendations for disposition.

13 (2) For purposes of disposition:

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

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

17 (c) In no event may a disposition for a violation include
18 confinement.

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

22 (a) Consider the facts supporting the allegations of criminal
23 conduct by the respondent;

24 (b) Consider information and arguments offered by parties and their
25 counsel;

26 (c) Consider any predisposition reports;

27 (d) Consult with the respondent's parent, guardian, or custodian on
28 the appropriateness of dispositional options under consideration and
29 afford the respondent and the respondent's parent, guardian, or
30 custodian an opportunity to speak in the respondent's behalf;

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

33 (f) Determine the amount of restitution owing to the victim, if
34 any;

35 (g) Determine whether the respondent is a serious offender, a
36 middle offender, or a minor (~~or first~~) offender;

37 (h) Consider whether or not any of the following mitigating factors
38 exist:

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

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

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

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

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

13 (i) Consider whether or not any of the following aggravating
14 factors exist:

15 (i) In the commission of the offense, or in flight therefrom, the
16 respondent inflicted or attempted to inflict serious bodily injury to
17 another;

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

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

21 (iv) The respondent has a recent criminal history or has failed to
22 comply with conditions of a recent dispositional order or diversion
23 agreement;

24 (v) The current offense included a finding of sexual motivation
25 pursuant to RCW 9.94A.127;

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

28 (vii) There are other complaints which have resulted in diversion
29 or a finding or plea of guilty but which are not included as criminal
30 history.

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

33 (a) The sex of the respondent;

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

35 (c) The creed or religion of the respondent or the respondent's
36 family;

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

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

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

6 NEW SECTION. **Sec. 5.** The legislature finds that maximizing
7 judicial discretion helps courts to fashion appropriate sentences for
8 juvenile offenders. Some juvenile offenders require extra motivation
9 to ensure compliance with community supervision agreements. Amending
10 RCW 13.40.160 to give courts the authority to impose dispositions that
11 include suspended confinement will give juvenile offenders an extra
12 incentive to comply with community supervision requirements.

13 **Sec. 6.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to read
14 as follows:

15 (1) When the respondent is found to be a serious offender, the
16 court shall commit the offender to the department for the standard
17 range of disposition for the offense, as indicated in option A of
18 schedule D-3, RCW 13.40.0357 except as provided in subsection (5) of
19 this section.

20 If the court concludes, and enters reasons for its conclusion, that
21 disposition within the standard range would effectuate a manifest
22 injustice the court shall impose a disposition outside the standard
23 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
24 court's finding of manifest injustice shall be supported by clear and
25 convincing evidence.

26 A disposition outside the standard range shall be determinate and
27 shall be comprised of confinement or community supervision, or a
28 combination thereof. When a judge finds a manifest injustice and
29 imposes a sentence of confinement exceeding thirty days, the court
30 shall sentence the juvenile to a maximum term, and the provisions of
31 RCW 13.40.030(2)((~~as now or hereafter amended,~~)) shall be used to
32 determine the range. A disposition outside the standard range is
33 appealable under RCW 13.40.230((~~as now or hereafter amended,~~)) by the
34 state or the respondent. A disposition within the standard range is
35 not appealable under RCW 13.40.230 ((~~as now or hereafter amended~~)).

36 (2) Where the respondent is found to be a minor ((~~or first~~))
37 offender, the court shall order that the respondent serve a term of

1 community supervision as indicated in option A or option B of schedule
2 D-1, RCW 13.40.0357 except as provided in subsection (5) of this
3 section. If the court determines that a disposition of community
4 supervision would effectuate a manifest injustice the court may impose
5 another disposition under option C of schedule D-1, RCW 13.40.0357.
6 Except as provided in subsection (5) of this section, a disposition
7 other than a community supervision may be imposed only after the court
8 enters reasons upon which it bases its conclusions that imposition of
9 community supervision would effectuate a manifest injustice. When a
10 judge finds a manifest injustice and imposes a sentence of confinement
11 exceeding thirty days, the court shall sentence the juvenile to a
12 maximum term, and the provisions of RCW 13.40.030(2)(~~(, as now or~~
13 ~~hereafter amended,)~~) shall be used to determine the range. The court's
14 finding of manifest injustice shall be supported by clear and
15 convincing evidence. The court may suspend all or a portion of any
16 term of confinement imposed under this subsection (2).

17 Except for disposition of community supervision or a disposition
18 imposed pursuant to subsection (5) of this section, a disposition may
19 be appealed as provided in RCW 13.40.230(~~(, as now or hereafter~~
20 ~~amended,)~~) by the state or the respondent. A disposition of community
21 supervision or a disposition imposed pursuant to subsection (5) of this
22 section may not be appealed under RCW 13.40.230 (~~(as now or hereafter~~
23 ~~amended)~~).

24 (3) Where a respondent is found to have committed an offense for
25 which the respondent declined to enter into a diversion agreement, the
26 court shall impose a term of community supervision limited to the
27 conditions allowed in a diversion agreement as provided in RCW
28 13.40.080(2) (~~(as now or hereafter amended)~~).

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

30 (a) The court shall impose a determinate disposition within the
31 standard range(s) for such offense, as indicated in option A of
32 schedule D-2, RCW 13.40.0357 except as provided in subsection (5) of
33 this section: PROVIDED, That if the standard range includes a term of
34 confinement exceeding thirty days, commitment shall be to the
35 department for the standard range of confinement; or

36 (b) The court shall impose a determinate disposition of community
37 supervision and/or up to thirty days confinement, as indicated in
38 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement
39 has been imposed, the court shall state either aggravating or

1 mitigating factors as set forth in RCW 13.40.150 (~~as now or hereafter~~
2 ~~amended~~)).

3 (c) Only if the court concludes, and enters reasons for its
4 conclusions, that disposition as provided in subsection (4)(a) or (b)
5 of this section would effectuate a manifest injustice, the court shall
6 sentence the juvenile to a maximum term, and the provisions of RCW
7 13.40.030(2)(~~, as now or hereafter amended,~~) shall be used to
8 determine the range. The court's finding of manifest injustice shall
9 be supported by clear and convincing evidence.

10 (d) A disposition pursuant to subsection (4)(c) of this section is
11 appealable under RCW 13.40.230(~~, as now or hereafter amended,~~) by the
12 state or the respondent. A disposition pursuant to subsection (4) (a)
13 or (b) of this section is not appealable under RCW 13.40.230 (~~as now~~
14 ~~or hereafter amended~~)).

15 (e) The court may suspend all or a portion of any term of
16 confinement imposed under this subsection (4).

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

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

30 The examiner shall assess and report regarding the respondent's
31 amenability to treatment and relative risk to the community. A
32 proposed treatment plan shall be provided and shall include, at a
33 minimum:

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

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

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

4 (iv) Anticipated length of treatment; and

5 (v) 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, and the court may suspend the execution of the
20 disposition and place the offender on community supervision for up to
21 two years. As a condition of the suspended disposition, the court may
22 impose the conditions of community supervision and other conditions,
23 including up to thirty days of confinement and requirements that the
24 offender do any one or more of the following:

25 (b)(i) Devote time to a specific education, employment, or
26 occupation;

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

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

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

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

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

7 (vii) Make restitution to the victim for the cost of any counseling
8 reasonably related to the offense.

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

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

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

31 If the offender violates any condition of the disposition or the
32 court finds that the respondent is failing to make satisfactory
33 progress in treatment, the court may revoke the suspension and order
34 execution of the sentence. The court shall give credit for any
35 confinement time previously served if that confinement was for the
36 offense for which the suspension is being revoked.

37 For purposes of this section, "victim" means any person who has
38 sustained emotional, psychological, physical, or financial injury to
39 person or property as a direct result of the crime charged. "Victim"

1 may also include a known parent or guardian of a victim who is a minor
2 child unless the parent or guardian is the perpetrator of the offense.

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

7 (7) Except as provided for in subsection (5) of this section, the
8 court shall not suspend or defer the imposition or the execution of the
9 disposition.

10 (8) In no case shall the term of confinement imposed by the court
11 at disposition exceed that to which an adult could be subjected for the
12 same offense.

13 **Sec. 7.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to read
14 as follows:

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

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

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

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