
SUBSTITUTE HOUSE BILL 2907

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Morris, Long, Appelwick, Ballasiotes, Thibaudeau, Cooke, J. Kohl, L. Johnson, Lemmon, Caver, Jones and Rayburn)

Read first time 02/08/94.

1 AN ACT Relating to violence prevention; amending RCW 43.20A.090,
2 13.50.010, 72.09.300, 13.06.050, 13.40.020, 13.40.070, 13.40.080,
3 13.40.0357, 13.40.160, 13.40.180, 13.40.190, 13.40.200, 13.40.210,
4 13.40.230, 9.41.080, 9A.56.040, 9A.56.160, 9A.36.045, 13.32A.050,
5 13.32A.060, 13.32A.080, 13.32A.130, 13.04.030, 26.12.010, 13.04.021,
6 13.40.020, 13.40.025, 13.40.027, 13.40.030, 13.40.150, 13.40.160,
7 13.40.180, 13.40.205, 13.40.210, and 13.40.230; amending 1993 c 415 s
8 8 (uncodified); reenacting and amending RCW 9.41.040; adding new
9 sections to chapter 13.40 RCW; adding new sections to chapter 9.41 RCW;
10 adding a new section to chapter 9A.56 RCW; adding a new section to
11 chapter 9.91 RCW; adding a new section to chapter 35.21 RCW; adding a
12 new section to chapter 74.13 RCW; adding a new section to chapter
13 43.101 RCW; creating new sections; repealing RCW 13.40.0354,
14 13.40.0357, and 13.40.---; prescribing penalties; providing an
15 expiration date; and providing effective dates.

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

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PART I - JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1994

SUBPART A: ADMINISTRATION

NEW SECTION. **Sec. 101.** The legislature finds that the incidence of juvenile crime has escalated at an alarming rate, and that the state's juvenile rehabilitation system needs major adjustments in order to respond.

The current system lacks adequate bed space, adequate population forecasting, an effective sentencing scheme, an appropriate inmate classification system, and sufficient judicial discretion in sentencing young offenders.

These defects have often resulted in sentences that are driven by fiscal policy, and not by rehabilitative or punitive principles; and

Washington must develop a juvenile offender rehabilitation system that truly emphasizes public safety, offender responsibility, and offender rehabilitation.

Sec. 102. RCW 43.20A.090 and 1970 ex.s. c 18 s 7 are each amended to read as follows:

The secretary shall appoint a deputy secretary, a department personnel director and such assistant secretaries as shall be needed to administer the department. The deputy secretary shall have charge and

1 general supervision of the department in the absence or disability of
2 the secretary, and in case of a vacancy in the office of secretary,
3 shall continue in charge of the department until a successor is
4 appointed and qualified, or until the governor shall appoint an acting
5 secretary. The secretary shall appoint an assistant secretary to
6 administer the juvenile rehabilitation responsibilities required of the
7 department by chapters 13.04, 13.40, and 13.50 RCW. The officers
8 appointed under this section, and exempt from the provisions of the
9 state civil service law by the terms of RCW 41.06.076, shall be paid
10 salaries to be fixed by the governor in accordance with the procedure
11 established by law for the fixing of salaries for officers exempt from
12 the operation of the state civil service law.

13 NEW SECTION. **Sec. 103.** A new section is added to chapter 13.40
14 RCW to read as follows:

15 The assistant secretary shall manage and administer the
16 department's juvenile rehabilitation responsibilities, including but
17 not limited to the operation of all state institutions or facilities
18 used for juvenile rehabilitation.

19 The assistant secretary shall:

20 (1) Prepare a biennial budget request sufficient to meet the
21 confinement and rehabilitative needs of the juvenile rehabilitation
22 program, as forecast by the office of financial management;

23 (2) Create by rule a formal system for inmate classification. This
24 classification system shall consider:

25 (a) Public safety;

26 (b) Internal security and staff safety; and

27 (c) Rehabilitative resources both within and outside the
28 department;

29 (3) Develop a plan to implement, by July 1, 1995:

30 (a) Substance abuse treatment programs for all state juvenile
31 rehabilitation facilities and institutions;

32 (b) Vocational education and instruction programs at all state
33 juvenile rehabilitation facilities and institutions;

34 (c) Agreements with local jurisdictions to develop regional
35 facilities with a variety of custody levels;

36 (d) Rules establishing effective disciplinary policies to maintain
37 order within institutions; and

1 (e) A comprehensive diagnostic evaluation process to be used at
2 intake, including but not limited to evaluation for substance addiction
3 or abuse, literacy, learning disabilities, fetal alcohol syndrome or
4 effect, and mental health.

5 NEW SECTION. **Sec. 104.** A new section is added to chapter 13.40
6 RCW to read as follows:

7 The assistant secretary shall review the vocational education
8 curriculum, facilities, and teaching personnel in all juvenile
9 residential programs and report to the legislature by December 12,
10 1994. The report shall include an assessment of the number and types
11 of vocational programs currently available, and the status of
12 buildings, teaching personnel, and equipment currently used for
13 vocational training. The report shall also contain an action plan for
14 implementing, by July 1, 1995, a state-wide uniform prevocational and
15 vocational education program, including but not limited to, a
16 projection of the need for the programs for both female and male
17 juvenile offenders, the number of students that could benefit from the
18 programs, projected vocational trade needs, physical plant
19 modifications or building needs, equipment needs, teaching personnel
20 needs, and estimated costs. In addition, the report shall identify how
21 the department can develop vocational programs jointly with trade
22 associations, trade unions, and other state, local, and federal
23 agencies. The department shall also identify businesses and industries
24 potentially interested in working with the program.

25 NEW SECTION. **Sec. 105.** A new section is added to chapter 13.40
26 RCW to read as follows:

27 The assistant secretary shall issue arrest warrants for juveniles
28 who escape from department residential custody. These arrest warrants
29 shall authorize any law enforcement, probation and parole, or peace
30 officer of this state, or any other state where the juvenile is
31 located, to arrest the juvenile and to place the juvenile in physical
32 custody pending the juvenile's return to confinement in a state
33 juvenile rehabilitation facility.

34 **Sec. 106.** RCW 13.50.010 and 1993 c 374 s 1 are each amended to
35 read as follows:

36 (1) For purposes of this chapter:

1 (a) "Juvenile justice or care agency" means any of the following:
2 Police, diversion units, court, prosecuting attorney, defense attorney,
3 detention center, attorney general, the department of social and health
4 services and its contracting agencies, schools, juvenile justice
5 advisory committees of county law and justice councils; and, in
6 addition, persons or public or private agencies having children
7 committed to their custody;

8 (b) "Official juvenile court file" means the legal file of the
9 juvenile court containing the petition or information, motions,
10 memorandums, briefs, findings of the court, and court orders;

11 (c) "Social file" means the juvenile court file containing the
12 records and reports of the ((~~probation~~)) community supervision
13 counselor;

14 (d) "Records" means the official juvenile court file, the social
15 file, and records of any other juvenile justice or care agency in the
16 case.

17 (2) Each petition or information filed with the court may include
18 only one juvenile and each petition or information shall be filed under
19 a separate docket number. The social file shall be filed separately
20 from the official juvenile court file.

21 (3) It is the duty of any juvenile justice or care agency to
22 maintain accurate records. To this end:

23 (a) The agency may never knowingly record inaccurate information.
24 Any information in records maintained by the department of social and
25 health services relating to a petition filed pursuant to chapter 13.34
26 RCW that is found by the court, upon proof presented, to be false or
27 inaccurate shall be corrected or expunged from such records by the
28 agency;

29 (b) An agency shall take reasonable steps to insure the security of
30 its records and prevent tampering with them; and

31 (c) An agency shall make reasonable efforts to insure the
32 completeness of its records, including action taken by other agencies
33 with respect to matters in its files.

34 (4) Each juvenile justice or care agency shall implement procedures
35 consistent with the provisions of this chapter to facilitate inquiries
36 concerning records.

37 (5) Any person who has reasonable cause to believe information
38 concerning that person is included in the records of a juvenile justice
39 or care agency and who has been denied access to those records by the

1 agency may make a motion to the court for an order authorizing that
2 person to inspect the juvenile justice or care agency record concerning
3 that person. The court shall grant the motion to examine records
4 unless it finds that in the interests of justice or in the best
5 interests of the juvenile the records or parts of them should remain
6 confidential.

7 (6) A juvenile, or his or her parents, or any person who has
8 reasonable cause to believe information concerning that person is
9 included in the records of a juvenile justice or care agency may make
10 a motion to the court challenging the accuracy of any information
11 concerning the moving party in the record or challenging the continued
12 possession of the record by the agency. If the court grants the
13 motion, it shall order the record or information to be corrected or
14 destroyed.

15 (7) The person making a motion under subsection (5) or (6) of this
16 section shall give reasonable notice of the motion to all parties to
17 the original action and to any agency whose records will be affected by
18 the motion.

19 (8) The court may permit inspection of records by, or release of
20 information to, any clinic, hospital, or agency which has the subject
21 person under care or treatment, or to individuals or agencies engaged
22 in legitimate research for educational, scientific, or public purposes,
23 including juvenile justice advisory committees of county law and
24 justice councils. The court may also permit inspection of, or release
25 of information from, records which have been sealed pursuant to RCW
26 13.50.050(11). Access to records or information for research purposes
27 shall be permitted only if the anonymity of all persons mentioned in
28 the records or information will be preserved. Each person granted
29 permission to inspect juvenile justice or care agency records for
30 research purposes shall present a notarized statement to the court
31 stating that the names of juveniles and parents will remain
32 confidential.

33 (9) Juvenile detention facilities shall release records to the
34 juvenile disposition standards commission under RCW 13.40.025 upon
35 request. The commission shall not disclose the names of any juveniles
36 or parents mentioned in the records without the named individual's
37 written permission.

1 **Sec. 107.** RCW 72.09.300 and 1993 sp.s. c 21 s 8 are each amended
2 to read as follows:

3 (1) Every county legislative authority shall by resolution or
4 ordinance establish a local law and justice council. The county
5 legislative authority shall determine the size and composition of the
6 council, which shall include the county sheriff and a representative of
7 the municipal police departments within the county, the county
8 prosecutor and a representative of the municipal prosecutors within the
9 county, a representative of the city legislative authorities within the
10 county, a representative of the county's superior, juvenile, district,
11 and municipal courts, the county jail administrator, the county clerk,
12 the county risk manager, and the secretary of corrections. Officials
13 designated may appoint representatives.

14 (2) A combination of counties may establish a local law and justice
15 council by intergovernmental agreement. The agreement shall comply
16 with the requirements of this section.

17 (3) The local law and justice council shall develop a local law and
18 justice plan for the county. The council shall design the elements and
19 scope of the plan, subject to final approval by the county legislative
20 authority. The general intent of the plan shall include seeking means
21 to maximize local resources including personnel and facilities, reduce
22 duplication of services, and share resources between local and state
23 government in order to accomplish local efficiencies without
24 diminishing effectiveness. The plan shall also include a section on
25 jail management. This section may include the following elements:

26 (a) A description of current jail conditions, including whether the
27 jail is overcrowded;

28 (b) A description of potential alternatives to incarceration;

29 (c) A description of current jail resources;

30 (d) A description of the jail population as it presently exists and
31 how it is projected to change in the future;

32 (e) A description of projected future resource requirements;

33 (f) A proposed action plan, which shall include recommendations to
34 maximize resources, maximize the use of intermediate sanctions,
35 minimize overcrowding, avoid duplication of services, and effectively
36 manage the jail and the offender population;

37 (g) A list of proposed advisory jail standards and methods to
38 effect periodic quality assurance inspections of the jail;

1 (h) A proposed plan to collect, synthesize, and disseminate
2 technical information concerning local criminal justice activities,
3 facilities, and procedures;

4 (i) A description of existing and potential services for offenders
5 including employment services, substance abuse treatment, mental health
6 services, and housing referral services.

7 (4) The council may propose other elements of the plan, which shall
8 be subject to review and approval by the county legislative authority,
9 prior to their inclusion into the plan.

10 (5) The county legislative authority may request technical
11 assistance in developing or implementing the plan from other units or
12 agencies of state or local government, which shall include the
13 department, the office of financial management, and the Washington
14 association of sheriffs and police chiefs.

15 (6) Upon receiving a request for assistance from a county, the
16 department may provide the requested assistance.

17 (7) The secretary may adopt rules for the submittal, review, and
18 approval of all requests for assistance made to the department. The
19 secretary may also appoint an advisory committee of local and state
20 government officials to recommend policies and procedures relating to
21 the state and local correctional systems and to assist the department
22 in providing technical assistance to local governments. The committee
23 shall include representatives of the county sheriffs, the police
24 chiefs, the county prosecuting attorneys, the county and city
25 legislative authorities, and the jail administrators. The secretary
26 may contract with other state and local agencies and provide funding in
27 order to provide the assistance requested by counties.

28 (8) The department shall establish a base level of state
29 correctional services, which shall be determined and distributed in a
30 consistent manner state-wide. The department's contributions to any
31 local government, approved pursuant to this section, shall not operate
32 to reduce this base level of services.

33 (9) The council shall establish an advisory committee on juvenile
34 justice proportionality. The council shall appoint the county juvenile
35 court administrator and at least five citizens as advisory committee
36 members. The citizen advisory committee members shall be
37 representative of the county's ethnic and geographic diversity. The
38 advisory committee members shall serve two-year terms and may be
39 reappointed. The duties of the advisory committee include:

1 (a) Monitoring and reporting to the juvenile disposition standards
2 commission on the proportionality, effectiveness, and cultural
3 relevance of:

4 (i) The rehabilitative goals required by juvenile offender
5 dispositions;

6 (ii) The rehabilitative services offered by county and state
7 institutions to juvenile offenders; and

8 (iii) The rehabilitative services offered in conjunction with
9 diversions, deferred sentences, community supervision, and parole;

10 (b) Reviewing citizen complaints regarding bias or
11 disproportionality in that county's juvenile justice system;

12 (c) By September 1 of each year, beginning with 1995, submit to the
13 juvenile disposition standards commission a report summarizing the
14 advisory committee's findings under (a) and (b) of this subsection.

15 **Sec. 108.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to
16 read as follows:

17 No county shall be entitled to receive any state funds provided by
18 this chapter until its application and plan are approved, and unless
19 and until the minimum standards prescribed by the department of social
20 and health services are complied with and then only on such terms as
21 are set forth in this section. In addition, any county making
22 application for state funds under this chapter that also operates a
23 juvenile detention facility must have standards of operations in place
24 that include: Intake and admissions, medical and health care,
25 communication, correspondence, visiting and telephone use, security and
26 control, sanitation and hygiene, juvenile rights, rules and discipline,
27 property, juvenile records, safety and emergency procedures,
28 programming, release and transfer, training and staff development, and
29 food service.

30 (1) The distribution of funds to a county or a group of counties
31 shall be based on criteria including but not limited to the county's
32 per capita income, regional or county at-risk populations, juvenile
33 crime or arrest rates, rates of poverty, size of racial minority
34 populations, and existing programs~~(, and the effectiveness and~~
35 ~~efficiency of consolidating local programs towards reducing commitments~~
36 ~~to state correctional facilities for offenders whose standard range~~
37 ~~disposition does not include commitment of the offender to the~~

1 department and reducing reliance on other traditional departmental
2 services)).

3 (2) The department may not place caps on commitments to the
4 department or otherwise limit a county's ability to commit juvenile
5 offenders to the department. The department's disbursal of funds under
6 this chapter may not be conditioned on the number of juveniles
7 committed to the department.

8 (3) The secretary will reimburse a county upon presentation and
9 approval of a valid claim pursuant to the provisions of this chapter
10 based on actual performance in meeting the terms and conditions of the
11 approved plan and contract. Funds received by participating counties
12 under this chapter shall not be used to replace local funds for
13 existing programs.

14 ((+3)) (4) The secretary, in conjunction with the human rights
15 commission, shall evaluate the effectiveness of programs funded under
16 this chapter in reducing racial disproportionality. The secretary
17 shall investigate whether implementation of such programs has reduced
18 disproportionality in counties with initially high levels of
19 disproportionality. The analysis shall indicate which programs are
20 cost-effective in reducing disproportionality in such areas as
21 alternatives to detention, intake and risk assessment standards
22 pursuant to RCW 13.40.038, alternatives to incarceration, and in the
23 prosecution and adjudication of juveniles. The secretary shall report
24 his or her findings to the legislature by December 1, 1994, and
25 December 1 of each year thereafter.

26 **SUBPART B: STUDIES CONCERNING JUVENILE JUSTICE**

27 NEW SECTION. Sec. 201. The legislature finds that:

28 Local jurisdictions have difficulty administering and enforcing the
29 laws related to juvenile offenders;

30 These difficulties include the local jurisdictions' abilities to
31 arrest, adjudicate, confine, administer, and supervise juvenile
32 offenders;

33 These difficulties have resulted in significant delays in the
34 administration of justice to juvenile offenders;

35 These difficulties may be due to a number of factors, including,
36 but not necessarily limited to, resource limitations within the various

1 units of government charged with the responsibility for administering
2 and enforcing laws related to juvenile offenders.

3 Therefore, effective July 1, 1994, a special legislative committee
4 is created to assess the ability and needs of local jurisdictions to
5 address adequately the administration of justice to juvenile offenders.
6 Specifically, this committee shall review the implementation and
7 administration of:

8 (1) Chapter 13.04 RCW, the basic juvenile court act;

9 (2) Chapter 13.06 RCW, consolidated juvenile services funding;

10 (3) Chapter 13.16 RCW, places of detention;

11 (4) Chapter 13.20 RCW, county detention facilities; and

12 (5) Chapter 13.40 RCW, the juvenile justice act of 1977.

13 The committee established under this section shall consist of the
14 members of the law and justice committee of the senate and the
15 corrections committee of the house of representatives. This committee
16 shall meet and conduct hearings as often as is necessary to carry out
17 its responsibilities under this section.

18 The special committee shall receive access to all relevant
19 information necessary to monitor the conduct of agencies or employees.
20 All confidential information received by the special committee under
21 this section shall be kept confidential by members of the committee and
22 shall not be further disseminated unless specifically authorized by
23 state or federal law.

24 The special committee shall report its findings and make
25 recommendations regarding the issues and chapters cited in this section
26 in a report submitted to the legislature before the 1996 regular
27 session of the legislature.

28 The special committee, unless recreated by the legislature, shall
29 cease to exist after submitting the report required under this section.

30 NEW SECTION. **Sec. 202.** The office of the administrator for the
31 courts shall convene a work group to recommend to the legislature
32 standards to guide the court's discretion at significant stages of the
33 juvenile justice process. The work group shall consist of two juvenile
34 court judges, two juvenile court administrators, two prosecuting
35 attorneys or deputy prosecuting attorneys actively practicing in
36 juvenile court, and two defense attorneys actively practicing in
37 juvenile court. The work group shall, by September 1, 1994, recommend
38 to the legislature standards to guide:

- 1 (1) The decision to defer adjudication;
- 2 (2) The decision to suspend a sentence;
- 3 (3) The setting of rehabilitative goals in a disposition order that
- 4 includes commitment to the department of social and health services;
- 5 (4) The determination that a juvenile has or has not met the
- 6 rehabilitative goals during the term of commitment to the department of
- 7 social and health services; and
- 8 (5) The decision to set a date for a juvenile's release from the
- 9 department of social and health services' custody.

10 **SUBPART C: JUVENILE DISPOSITION STANDARDS**

11 **Sec. 301.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to
12 read as follows:

13 For the purposes of this chapter:

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

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

18 (b) Manslaughter in the first degree; or

19 (c) Assault in the second degree, extortion in the first degree,
20 child molestation in the second degree, kidnapping in the second
21 degree, robbery in the second degree, residential burglary, or burglary
22 in the second degree, where such offenses include the infliction of
23 bodily harm upon another or where during the commission of or immediate
24 withdrawal from such an offense the perpetrator is armed with a deadly
25 weapon (~~((or firearm as defined in RCW 9A.04.110))~~);

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

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

37 (a) Community-based sanctions;

1 (b) Community-based rehabilitation;

2 (c) Monitoring and reporting requirements;

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

4 following:

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

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

7 service;

8 (5) "Community-based rehabilitation" means one or more of the

9 following: Attendance of information classes; counseling, outpatient

10 substance abuse treatment programs, outpatient mental health programs,

11 anger management classes, or other services; or attendance at school or

12 other educational programs appropriate for the juvenile as determined

13 by the school district. Placement in community-based rehabilitation

14 programs is subject to available funds;

15 (6) "Monitoring and reporting requirements" means one or more of

16 the following: Curfews; requirements to remain at home, school, work,

17 or court-ordered treatment programs during specified hours;

18 restrictions from leaving or entering specified geographical areas;

19 requirements to report to the ((~~probation~~)) community supervision

20 officer as directed and to remain under the ((~~probation~~)) community

21 supervision officer's supervision; and other conditions or limitations

22 as the court may require which may not include confinement;

23 (7) "Confinement" means physical custody by the department of

24 social and health services in a facility operated by or pursuant to a

25 contract with the state, or physical custody in a detention facility

26 operated by or pursuant to a contract with any county. The county may

27 operate or contract with vendors to operate county detention

28 facilities. "Confinement" includes state and county group homes,

29 foster care homes, inpatient substance abuse programs, juvenile boot

30 camps, and electronic monitoring. The department may operate or

31 contract to operate detention facilities for juveniles committed to the

32 department. Pretrial confinement or confinement of less than thirty-

33 one days imposed as part of a disposition or modification order may be

34 served consecutively or intermittently, in the discretion of the court

35 and may be served in a detention group home, detention foster home, or

36 with electronic monitoring. Detention group homes and detention foster

37 homes used for confinement shall not also be used for the placement of

38 dependent children. Confinement in detention group homes and detention

39 foster homes and electronic monitoring are subject to available funds;

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

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

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

9 (b) The criminal complaint was diverted by a prosecutor pursuant to
10 the provisions of this chapter on agreement of the respondent and after
11 an advisement to the respondent that the criminal complaint would be
12 considered as part of the respondent's criminal history. Deferred
13 adjudications shall not be considered part of the respondent's criminal
14 history;

15 (10) "Department" means the department of social and health
16 services;

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

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

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

1 (14) "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 pursuant to RCW 13.40.110 or who
4 is otherwise under adult court jurisdiction;

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

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

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

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

18 (a) Four misdemeanors;

19 (b) Two misdemeanors and one gross misdemeanor;

20 (c) One misdemeanor and two gross misdemeanors; or

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

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

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

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

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

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

38 (21) "Restitution" means financial reimbursement by the offender to
39 the victim, and shall be limited to easily ascertainable damages for

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

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

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

15 (24) "Sex offense" means an offense defined as a sex offense in RCW
16 9.94A.030;

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

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

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

26 (28) "Deadly weapon" means a deadly weapon as defined in RCW
27 9.94A.125;

28 (29) "Assistant secretary" means the assistant secretary for
29 juvenile rehabilitation within the department;

30 (30) "Violent offense" means a violent offense as defined in RCW
31 9.94A.030;

32 (31) "Placement out of the home" means placement for twenty-four
33 hour residential care in foster or group care or with a court-approved
34 custodian. Placement out of the home in county or state-funded
35 placements is subject to available funds and beds.

36 **Sec. 302.** RCW 13.40.070 and 1992 c 205 s 107 are each amended to
37 read as follows:

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

5 (a) The alleged facts bring the case within the jurisdiction of the
6 court; and

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

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

13 (3) If the requirements of subsections (1) (a) and (b) of this
14 section are met, the prosecutor shall either file an information in
15 juvenile court or divert the case, as set forth in subsections (5),
16 (6), and (7) of this section. If the prosecutor finds that the
17 requirements of subsection (1) (a) and (b) of this section are not met,
18 the prosecutor shall maintain a record, for one year, of such decision
19 and the reasons therefor. In lieu of filing an information or
20 diverting an offense a prosecutor may file a motion to modify community
21 supervision where such offense constitutes a violation of community
22 supervision.

23 (4) An information shall be a plain, concise, and definite written
24 statement of the essential facts constituting the offense charged. It
25 shall be signed by the prosecuting attorney and conform to chapter
26 10.37 RCW.

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

29 (a) An alleged offender is accused of a class A felony, a class B
30 felony, an attempt to commit a class B felony, a class C felony listed
31 in RCW 9.94A.440(2) as a crime against persons or listed in RCW
32 9A.46.060 as a crime of harassment, a class C felony that is a
33 violation of RCW 9.41.080 or 9.41.040(1)(e), or any other offense
34 listed in RCW 13.40.020(1) (b) or (c); or

35 (b) An alleged offender is accused of a felony and has a criminal
36 history of ~~((at least one class A or class B felony, or two class C~~
37 ~~felonies)) any felony, or at least two gross misdemeanors, or at least
38 two misdemeanors ~~((and one additional misdemeanor or gross misdemeanor,~~~~

1 ~~or at least one class C felony and one misdemeanor or gross~~
2 ~~misdemeanor)); or~~

3 (c) An alleged offender has previously been committed to the
4 department; or

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

7 (e) An alleged offender has three or more diversion(~~(s)~~) contracts
8 on the alleged offender's criminal history; or

9 (f) A special allegation has been filed that the offender or an
10 accomplice was armed with a deadly weapon when the offense was
11 committed.

12 (6) Where a case is legally sufficient the prosecutor shall divert
13 the case if the alleged offense is a misdemeanor or gross misdemeanor
14 or violation and the alleged (~~(offense(s) in combination with the~~
15 ~~alleged offender's criminal history do not exceed two offenses or~~
16 ~~violations and do not include any felonies: PROVIDED, That)) offense
17 is the offender's first offense or violation. If the alleged offender
18 is charged with a related offense that must or may be filed under
19 subsections (5) and (7) of this section, a case under this subsection
20 may also be filed.~~

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

27 (8) Whenever a juvenile is placed in custody or, where not placed
28 in custody, referred to a diversionary interview, the parent or legal
29 guardian of the juvenile shall be notified as soon as possible
30 concerning the allegation made against the juvenile and the current
31 status of the juvenile. Where a case involves victims of crimes
32 against persons or victims whose property has not been recovered at the
33 time a juvenile is referred to a diversionary unit, the victim shall be
34 notified of the referral and informed how to contact the unit.

35 (9) The responsibilities of the prosecutor under subsections (1)
36 through (8) of this section may be performed by a juvenile court
37 (~~(probation)) community supervision counselor for any complaint~~
38 referred to the court alleging the commission of an offense which would
39 not be a felony if committed by an adult, if the prosecutor has given

1 sufficient written notice to the juvenile court that the prosecutor
2 will not review such complaints.

3 (10) The prosecutor, juvenile court (~~probation~~) community
4 supervision counselor, or diversion unit may, in exercising their
5 authority under this section or RCW 13.40.080, refer juveniles to
6 mediation or victim offender reconciliation programs. Such mediation
7 or victim offender reconciliation programs shall be voluntary for
8 victims.

9 **Sec. 303.** RCW 13.40.080 and 1992 c 205 s 108 are each amended to
10 read as follows:

11 (1) A diversion agreement shall be a contract between a juvenile
12 accused of an offense and a diversionary unit whereby the juvenile
13 agrees to fulfill certain conditions in lieu of prosecution. The
14 juvenile's custodial parent or parents or guardian shall be parties to
15 the diversion agreement. Such agreements may be entered into only
16 after the prosecutor, or (~~probation~~) community supervision counselor
17 pursuant to this chapter, has determined that probable cause exists to
18 believe that a crime has been committed and that the juvenile committed
19 it. Such agreements shall be entered into as expeditiously as
20 possible.

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

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

25 (b) Restitution limited to the amount of actual loss incurred by
26 the victim, and to an amount the juvenile has the means or potential
27 means to pay;

28 (c) Attendance at up to ten hours of counseling and/or up to twenty
29 hours of educational or informational sessions at a community agency:
30 PROVIDED, That the state shall not be liable for costs resulting from
31 the diversionary unit exercising the option to permit diversion
32 agreements to mandate attendance at up to ten hours of counseling and/
33 or up to twenty hours of educational or informational sessions; (~~and~~)

34 (d) A fine, not to exceed one hundred dollars. In determining the
35 amount of the fine, the diversion unit shall consider only the
36 juvenile's financial resources and whether the juvenile has the means
37 to pay the fine. The diversion unit shall not consider the financial

1 resources of the juvenile's parents, guardian, or custodian in
2 determining the fine to be imposed; and

3 (e) Requirements to remain during specified hours at home, school,
4 or work, and restrictions on leaving or entering specified geographical
5 areas.

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

15 (4) A diversion agreement may not exceed a period of six months and
16 may include a period extending beyond the eighteenth birthday of the
17 divertee. Any restitution assessed during its term may not exceed an
18 amount which the juvenile could be reasonably expected to pay during
19 this period. If additional time is necessary for the juvenile to
20 complete restitution to the victim, the time period limitations of this
21 subsection may be extended by an additional six months.

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

24 (6) Divertees and potential divertees shall be afforded due process
25 in all contacts with a diversionary unit regardless of whether the
26 juveniles are accepted for diversion or whether the diversion program
27 is successfully completed. Such due process shall include, but not be
28 limited to, the following:

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

31 (b) Violation of the terms of the agreement shall be the only
32 grounds for termination;

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

35 (i) Written notice of alleged violations of the conditions of the
36 diversion program; and

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

38 (d) The hearing shall be conducted by the juvenile court and shall
39 include:

1 (i) Opportunity to be heard in person and to present evidence;
2 (ii) The right to confront and cross-examine all adverse witnesses;
3 (iii) A written statement by the court as to the evidence relied on
4 and the reasons for termination, should that be the decision; and
5 (iv) Demonstration by evidence that the diverttee has substantially
6 violated the terms of his or her diversion agreement.

7 (e) The prosecutor may file an information on the offense for which
8 the diverttee was diverted:

9 (i) In juvenile court if the diverttee is under eighteen years of
10 age; or

11 (ii) In superior court or the appropriate court of limited
12 jurisdiction if the diverttee is eighteen years of age or older.

13 (7) The diversion unit shall, subject to available funds, be
14 responsible for providing interpreters when juveniles need interpreters
15 to effectively communicate during diversion unit hearings or
16 negotiations.

17 (8) The diversion unit shall be responsible for advising a diverttee
18 of his or her rights as provided in this chapter.

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

21 (10) The right to counsel shall inure prior to the initial
22 interview for purposes of advising the juvenile as to whether he or she
23 desires to participate in the diversion process or to appear in the
24 juvenile court. The juvenile may be represented by counsel at any
25 critical stage of the diversion process, including intake interviews
26 and termination hearings. The juvenile shall be fully advised at the
27 intake of his or her right to an attorney and of the relevant services
28 an attorney can provide. For the purpose of this section, intake
29 interviews mean all interviews regarding the diversion agreement
30 process.

31 The juvenile shall be advised that a diversion agreement shall
32 constitute a part of the juvenile's criminal history as defined by RCW
33 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment
34 of such advisement shall be obtained from the juvenile, and the
35 document shall be maintained by the diversionary unit together with the
36 diversion agreement, and a copy of both documents shall be delivered to
37 the prosecutor if requested by the prosecutor. The supreme court shall
38 promulgate rules setting forth the content of such advisement in simple
39 language.

1 (11) When a juvenile enters into a diversion agreement, the
2 juvenile court may receive only the following information for
3 dispositional purposes:

4 (a) The fact that a charge or charges were made;

5 (b) The fact that a diversion agreement was entered into;

6 (c) The juvenile's obligations under such agreement;

7 (d) Whether the alleged offender performed his or her obligations
8 under such agreement; and

9 (e) The facts of the alleged offense.

10 (12) A diversionary unit may refuse to enter into a diversion
11 agreement with a juvenile. When a diversionary unit refuses to enter
12 a diversion agreement with a juvenile, it shall immediately refer such
13 juvenile to the court for action and shall forward to the court the
14 criminal complaint and a detailed statement of its reasons for refusing
15 to enter into a diversion agreement. The diversionary unit shall also
16 immediately refer the case to the prosecuting attorney for action if
17 such juvenile violates the terms of the diversion agreement.

18 (13) A diversionary unit may, in instances where it determines that
19 the act or omission of an act for which a juvenile has been referred to
20 it involved no victim, or where it determines that the juvenile
21 referred to it has no prior criminal history and is alleged to have
22 committed an illegal act involving no threat of or instance of actual
23 physical harm and involving not more than fifty dollars in property
24 loss or damage and that there is no loss outstanding to the person or
25 firm suffering such damage or loss, counsel and release or release such
26 a juvenile without entering into a diversion agreement. A diversion
27 unit's authority to counsel and release a juvenile under this
28 subsection shall include the authority to refer the juvenile to
29 community-based counseling or treatment programs. Any juvenile
30 released under this subsection shall be advised that the act or
31 omission of any act for which he or she had been referred shall
32 constitute a part of the juvenile's criminal history as defined by RCW
33 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment
34 of such advisement shall be obtained from the juvenile, and the
35 document shall be maintained by the unit, and a copy of the document
36 shall be delivered to the prosecutor if requested by the prosecutor.
37 The supreme court shall promulgate rules setting forth the content of
38 such advisement in simple language. A juvenile determined to be
39 eligible by a diversionary unit for release as provided in this

1 subsection shall retain the same right to counsel and right to have his
2 or her case referred to the court for formal action as any other
3 juvenile referred to the unit.

4 (14) A diversion unit may supervise the fulfillment of a diversion
5 agreement entered into before the juvenile's eighteenth birthday and
6 which includes a period extending beyond the diverttee's eighteenth
7 birthday.

8 (15) If a fine required by a diversion agreement cannot reasonably
9 be paid due to a change of circumstance, the diversion agreement may be
10 modified at the request of the diverttee and with the concurrence of the
11 diversion unit to convert an unpaid fine into community service. The
12 modification of the diversion agreement shall be in writing and signed
13 by the diverttee and the diversion unit. The number of hours of
14 community service in lieu of a monetary penalty shall be converted at
15 the rate of the prevailing state minimum wage per hour.

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

23 NEW SECTION. **Sec. 304.** A new section is added to chapter 13.40
24 RCW to read as follows:

25 (1) At any time before adjudication, the juvenile court has the
26 power, after consulting the juvenile's custodial parent or parents or
27 guardian and with the consent of the juvenile, to continue the case for
28 a period not to exceed one year from the date of entry of the plea or
29 finding of guilt. The court may continue the case for an additional
30 one-year period for good cause.

31 (2) Any juvenile granted a deferral of adjudication under this
32 section shall be placed under community supervision. The court may
33 impose any conditions of supervision that it deems appropriate.
34 Payment of restitution, as provided in RCW 13.40.190 shall also be a
35 condition of community supervision under this section.

36 (3) Upon full compliance with such conditions of supervision, the
37 court shall dismiss the case with prejudice.

1 (4) If the juvenile fails to comply with the terms of supervision,
2 the court shall enter an order of adjudication and proceed to
3 disposition. The juvenile's lack of compliance shall be determined by
4 the judge upon written motion by the prosecutor or the juvenile's
5 juvenile court community supervision counselor. The state shall bear
6 the burden to prove by a preponderance of the evidence that the
7 juvenile has failed to comply with the terms of community supervision.

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

10 (a) To a speedy trial and disposition;

11 (b) To call and confront witnesses; and

12 (c) To a hearing on the record. The adjudicatory hearing shall be
13 limited to a reading of the court's record.

14 (6)(a) In addition to imposing conditions of community supervision,
15 the court may order that the juvenile be placed in a placement out of
16 the home if the court finds that the child is in need of supervision
17 and that placement of the child out of the home is in the child's best
18 interests. The court shall consider the following factors, among
19 others, when determining whether to place the child out of the home:

20 (i) The age of the youth;

21 (ii) Whether the child has a history of running away from home,
22 school absences, drug or alcohol abuse, assaultive behavior, curfew
23 violations, or is beyond the control of his or her parent to the extent
24 that the child's behavior substantially endangers the health, safety,
25 or welfare of the child or any other person;

26 (iii) The community supervision officer's report concerning the
27 family environment;

28 (iv) Assessment of the child's chances of successfully complying
29 with the terms of community supervision if the child remains in the
30 home; and

31 (v) The wishes of the parents, the parent's willingness and ability
32 to assist the child in complying with the terms of community
33 supervision, and the parent's willingness and ability to voluntarily
34 attend counseling or parenting seminars, or to seek treatment if the
35 parent, in the court's determination, has drug or alcohol problems,
36 mental health problems, or anger management problems.

37 (b) If the court finds that placement out of the home is necessary
38 and is in the best interests of the juvenile and community and that
39 reasonable efforts have been made to prevent out-of-home placement, the

1 court shall order an out-of-home placement, subject to available funds
2 and beds. The order shall be directed to the receiving agency or
3 person. In determining the location of the out-of-home placement the
4 court shall consider the needs of the juvenile, the juvenile's family,
5 and the community. The court shall first consider placement with a
6 relative and shall accord great weight to the juvenile's community
7 supervision officer's placement recommendation.

8 (c) A placement out of the home shall not exceed one year. The
9 court shall review the placement every ninety days. The juvenile's
10 community supervision officer shall request from the receiving agency
11 or person information on the placement, and the community supervision
12 officer shall include this information and other relevant information
13 in a report to be presented to the court at the placement review. The
14 review shall be conducted administratively.

15 (d) The court shall enter findings articulating the basis for the
16 placement and the basis for selecting the particular placement.

17 (e) If the receiving agency or person determines that the juvenile
18 is inappropriately placed, the agency or person may file with the court
19 a petition for reconsideration.

20 (f) Nothing in this section authorizes a juvenile court judge to
21 place a juvenile in a state-funded out of home placement unless the
22 department agrees to the placement.

23 (7) This section shall not apply if the juvenile is charged with a
24 violent or sex offense or if the juvenile has had a prior deferred
25 adjudication.

26 NEW SECTION. **Sec. 305.** State funds appropriated for the purposes
27 of section 304 of this act in the 1994 supplemental operating budget do
28 not constitute an on-going funding commitment of the state.

29 **Sec. 306.** RCW 13.40.0357 and 1989 c 407 s 7 are each amended to
30 read as follows:

31 SCHEDULE A

32 DESCRIPTION AND OFFENSE CATEGORY

33	JUVENILE
34	DISPOSITION
35	CATEGORY FOR ATTEMPT,
36	BAILJUMP, CONSPIRACY,

1	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
2
3		Arson and Malicious Mischief	
4	A	Arson 1 (9A.48.020)	B+
5	B	Arson 2 (9A.48.030)	C
6	C	Reckless Burning 1 (9A.48.040)	D
7	D	Reckless Burning 2 (9A.48.050)	E
8	B	Malicious Mischief 1 (9A.48.070)	C
9	C	Malicious Mischief 2 (9A.48.080)	D
10	D	Malicious Mischief 3 (<\$50 is	
11		E class) (9A.48.090)	E
12	E	Tampering with Fire Alarm	
13		Apparatus (9.40.100)	E
14	A	Possession of Incendiary Device	
15		(9.40.120)	B+
16		Assault and Other Crimes	
17		Involving Physical Harm	
18	A	Assault 1 (9A.36.011)	B+
19	B+	Assault 2 (9A.36.021)	C+
20	C+	Assault 3 (9A.36.031)	D+
21	D+	Assault 4 (9A.36.041)	E
22	D+	Reckless Endangerment	
23		(9A.36.050)	E
24	C+	Promoting Suicide Attempt	
25		(9A.36.060)	D+
26	D+	Coercion (9A.36.070)	E
27	C+	Custodial Assault (9A.36.100)	D+
28		Burglary and Trespass	
29	B+	Burglary 1 (9A.52.020)	C+
30	B	Burglary 2 (9A.52.030)	C
31	D	Burglary Tools (Possession of)	
32		(9A.52.060)	E
33	D	Criminal Trespass 1 (9A.52.070)	E
34	E	Criminal Trespass 2 (9A.52.080)	E
35	D	Vehicle Prowling (9A.52.100)	E

1		Drugs	
2	E	Possession/Consumption of Alcohol	
3		(66.44.270)	E
4	C	Illegally Obtaining Legend Drug	
5		(69.41.020)	D
6	C+	Sale, Delivery, Possession of Legend	
7		Drug with Intent to Sell	
8		(69.41.030)	D+
9	E	Possession of Legend Drug	
10		(69.41.030)	E
11	B+	Violation of Uniform Controlled	
12		Substances Act - Narcotic Sale	
13		(69.50.401(a)(1)(i))	B+
14	C	Violation of Uniform Controlled	
15		Substances Act - Nonnarcotic Sale	
16		(69.50.401(a)(1)(ii))	C
17	E	Possession of Marihuana <40 grams	
18		(69.50.401(e))	E
19	C	Fraudulently Obtaining Controlled	
20		Substance (69.50.403)	C
21	C+	Sale of Controlled Substance	
22		for Profit (69.50.410)	C+
23	E	((Glue Sniffing (9.47A.050))	E
24		<u>Unlawful Inhalation (9.47A.020)</u>	
25	B	Violation of Uniform Controlled	
26		Substances Act - Narcotic	
27		Counterfeit Substances	
28		(69.50.401(b)(1)(i))	B
29	C	Violation of Uniform Controlled	
30		Substances Act - Nonnarcotic	
31		Counterfeit Substances	
32		(69.50.401(b)(1) (ii), (iii), (iv))	C
33	C	Violation of Uniform Controlled	
34		Substances Act - Possession of a	
35		Controlled Substance	
36		(69.50.401(d))	C
37	C	Violation of Uniform Controlled	
38		Substances Act - Possession of a	

1		Controlled Substance	
2		(69.50.401(c))	C
3		Firearms and Weapons	
4	((C+	Committing Crime when Armed	
5		(9.41.025)	D+
6	E	Carrying Loaded Pistol Without	
7		Permit (9.41.050)	E
8	E)) C	((Use)) Possession of Firearms	
9		by Minor ((<14)) (<18)	
10		(((9.41.240))) (9.41.040(1)(e))	((E)) C
11	D+	Possession of Dangerous Weapon	
12		(9.41.250)	E
13	D	Intimidating Another Person by use	
14		of Weapon (9.41.270)	E
15	C	<u>Delivery of Firearm by Minor</u>	
16		<u>(9.41.080)</u>	C
17		Homicide	
18	A+	Murder 1 (9A.32.030)	A
19	A+	Murder 2 (9A.32.050)	B+
20	B+	Manslaughter 1 (9A.32.060)	C+
21	C+	Manslaughter 2 (9A.32.070)	D+
22	B+	Vehicular Homicide (46.61.520)	C+
23		Kidnapping	
24	A	Kidnap 1 (9A.40.020)	B+
25	B+	Kidnap 2 (9A.40.030)	C+
26	C+	Unlawful Imprisonment	
27		(9A.40.040)	D+
28	((D	Custodial Interference	
29		(9A.40.050)	E))
30		Obstructing Governmental Operation	
31	E	Obstructing a Public Servant	
32		(9A.76.020)	E
33	E	Resisting Arrest (9A.76.040)	E
34	B	Introducing Contraband 1	
35		(9A.76.140)	C

1	C	Introducing Contraband 2	
2		(9A.76.150)	D
3	E	Introducing Contraband 3	
4		(9A.76.160)	E
5	B+	Intimidating a Public Servant	
6		(9A.76.180)	C+
7	B+	Intimidating a Witness	
8		(9A.72.110)	C+
9	((E	Criminal Contempt	
10		(9.23.010)	E))
11		Public Disturbance	
12	C+	Riot with Weapon (9A.84.010)	D+
13	D+	Riot Without Weapon	
14		(9A.84.010)	E
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 (9A.44.040)	B+
19	A-	Rape 2 (9A.44.050)	B+
20	C+	Rape 3 (9A.44.060)	D+
21	A-	Rape of a Child 1 (9A.44.073)	B+
22	B	Rape of a Child 2 (9A.44.076)	C+
23	B	Incest 1 (9A.64.020(1))	C
24	C	Incest 2 (9A.64.020(2))	D
25	D+	((Public Indecency)) <u>Indecent Exposure</u>	
26		(Victim <14) (9A.88.010)	E
27	E	((Public Indecency)) <u>Indecent Exposure</u>	
28		(Victim 14 or over) (9A.88.010)	E
29	B+	Promoting Prostitution 1	
30		(9A.88.070)	C+
31	C+	Promoting Prostitution 2	
32		(9A.88.080)	D+
33	E	O & A (Prostitution) (9A.88.030)	E
34	B+	Indecent Liberties (9A.44.100)	C+
35	B+	Child Molestation 1 (9A.44.083)	C+
36	C+	Child Molestation 2 (9A.44.086)	C

1		Theft, Robbery, Extortion, and Forgery	
2	B	Theft 1 (9A.56.030)	C
3	C	Theft 2 (9A.56.040)	D
4	D	Theft 3 (9A.56.050)	E
5	B	Theft of Livestock (9A.56.080)	C
6	C	Forgery (((9A.56.020))) <u>(9A.60.020)</u>	D
7	A	Robbery 1 (9A.56.200)	B+
8	B+	Robbery 2 (9A.56.210)	C+
9	B+	Extortion 1 (9A.56.120)	C+
10	C+	Extortion 2 (9A.56.130)	D+
11	B	Possession of Stolen Property 1	
12		(9A.56.150)	C
13	C	Possession of Stolen Property 2	
14		(9A.56.160)	D
15	D	Possession of Stolen Property 3	
16		(9A.56.170)	E
17	C	Taking Motor Vehicle Without	
18		Owner's Permission (9A.56.070)	D
19		Motor Vehicle Related Crimes	
20	E	Driving Without a License	
21		(46.20.021)	E
22	C	Hit and Run - Injury	
23		(46.52.020(4))	D
24	D	Hit and Run-Attended	
25		(46.52.020(5))	E
26	E	Hit and Run-Unattended	
27		(46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing	
30		Police Vehicle (46.61.024)	D
31	E	Reckless Driving (46.61.500)	E
32	D	Driving While Under the Influence	
33		(46.61.515)	E
34	((B+	Negligent Homicide by Motor	
35		Vehicle (46.61.520)	C+))
36	D	Vehicle Prowling (9A.52.100)	E
37	C	Taking Motor Vehicle Without	
38		Owner's Permission (9A.56.070)	D

1		Other	
2	B	Bomb Threat (9.61.160)	C
3	C	Escape 1 (9A.76.110)	C
4	C	Escape 2 (9A.76.120)	C
5	D	Escape 3 (9A.76.130)	E
6	C	Failure to Appear in Court	
7		(10.19.130)	D
8		((E Tampering with Fire Alarm	
9		Apparatus (9.40.100) ----- E))	
10	E	Obscene, Harassing, Etc.,	
11		Phone Calls (9.61.230)	E
12	A	Other Offense Equivalent to an	
13		Adult Class A Felony	B+
14	B	Other Offense Equivalent to an	
15		Adult Class B Felony	C
16	C	Other Offense Equivalent to an	
17		Adult Class C Felony	D
18	D	Other Offense Equivalent to an	
19		Adult Gross Misdemeanor	E
20	E	Other Offense Equivalent to an	
21		Adult Misdemeanor	E
22	V	Violation of Order of Restitution,	
23		Community Supervision, or	
24		Confinement (13.40.200)	V

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

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

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

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

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

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SCHEDULE B
PRIOR OFFENSE INCREASE FACTOR

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

TIME SPAN

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

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

SCHEDULE C
CURRENT OFFENSE POINTS

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

1

AGE

2	OFFENSE	12 &					
3	CATEGORY	Under	13	14	15	16	17

4
.....

5	A+		STANDARD	RANGE	180-224	WEEKS	
6	A	250	300	350	375	375	375
7	A-	150	150	150	200	200	200
8	B+	110	110	120	130	140	150
9	B	45	45	50	50	57	57
10	C+	44	44	49	49	55	55
11	C	40	40	45	45	50	50
12	D+	16	18	20	22	24	26
13	D	14	16	18	20	22	24
14	E	4	4	4	6	8	10

15 JUVENILE SENTENCING STANDARDS
 16 SCHEDULE D-1

17 This schedule may only be used for ((minor/first)) minor offenders.
 18 After the determination is made that a youth is a ((minor/first)) minor
 19 offender, the court has the discretion to select sentencing option A,
 20 B, or C.

21 ((MINOR/FIRST)) MINOR OFFENDER

22 OPTION A
 23 STANDARD RANGE

24		Community		
25		Supervision	Service	
26	Points		Hours	Fine
27	1-9	0-3 months	and/or 0-8	and/or 0-\$10
28	10-19	0-3 months	and/or 0-8	and/or 0-\$10
29	20-29	0-3 months	and/or 0-16	and/or 0-\$10
30	30-39	0-3 months	and/or 8-24	and/or 0-\$25
31	40-49	3-6 months	and/or 16-32	and/or 0-\$25
32	50-59	3-6 months	and/or 24-40	and/or 0-\$25
33	60-69	6-9 months	and/or 32-48	and/or 0-\$50

1 70-79 6-9 months and/or 40-56 and/or 0-\$50
2 80-89 9-12 months and/or 48-64 and/or 10-\$100
3 90-109 9-12 months and/or 56-72 and/or 10-\$100

4 OR

5 OPTION B
6 STATUTORY OPTION

7 0-12 Months Community Supervision

8 0-150 Hours Community Service

9 0-100 Fine

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

12 OR

13 OPTION C
14 MANIFEST INJUSTICE

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

21 JUVENILE SENTENCING STANDARDS
22 SCHEDULE D-2

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

26 MIDDLE OFFENDER

27 OPTION A
28 STANDARD RANGE

1		Community	Service		Confinement
2	Points	Supervision	Hours	Fine	Days Weeks
5	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
6	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
7	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
8	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
9	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
10	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
11	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
12	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
13	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
14	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
15	110-129				8-12
16	130-149				13-16
17	150-199				21-28
18	200-249				30-40
19	250-299				52-65
20	300-374				80-100
21	375+				103-129

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

25 OR
 26
 27 OPTION B
 28 STATUTORY OPTION

29 0-12 Months Community Supervision
 30 0-150 Hours Community Service
 31 0-100 Fine

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

1 has more than 110 points, the court may impose a disposition under
2 option A and may suspend the disposition on the condition that the
3 offender serve up to thirty days of confinement and follow all
4 conditions of community supervision. If the offender fails to comply
5 with the terms of community supervision, the court may impose sanctions
6 pursuant to RCW 13.40.200 or may revoke the suspended disposition and
7 order execution of the disposition. If the court imposes confinement
8 under this option B, the court shall state either aggravating or
9 mitigating factors set forth in RCW 13.40.150.

10 OR

11
12 OPTION C

13 MANIFEST INJUSTICE

14 If the court determines that a disposition under A or B would
15 effectuate a manifest injustice, the court shall sentence the juvenile
16 to a maximum term and the provisions of RCW (~~13.40.030(5), as now or~~
17 ~~hereafter amended,)~~ 13.40.030(2) shall be used to determine the range.

18 JUVENILE SENTENCING STANDARDS

19 SCHEDULE D-3

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

23 SERIOUS OFFENDER

24 OPTION A

25 STANDARD RANGE

26	Points	Institution Time
27	0-129	8-12 weeks
28	130-149	13-16 weeks
29	150-199	21-28 weeks
30	200-249	30-40 weeks
31	250-299	52-65 weeks
32	300-374	80-100 weeks

1 state or the respondent. A disposition within the standard range is
2 not appealable under RCW 13.40.230 (~~((as now or hereafter amended))~~).

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

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

27 (3) Where a respondent is found to have committed an offense for
28 which the respondent declined to enter into a diversion agreement, the
29 court shall impose a term of community supervision limited to the
30 conditions allowed in a diversion agreement as provided in RCW
31 13.40.080(2) (~~((as now or hereafter amended))~~).

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

33 (a) The court shall impose a determinate disposition within the
34 standard range(s) for such offense, as indicated in option A of
35 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and
36 (6) of this section(~~(:—PROVIDED, That)~~). If the standard range
37 includes a term of confinement exceeding thirty days, commitment shall
38 be to the department (~~((for the standard range of confinement))~~); or

1 (b) The court shall impose a determinate disposition of community
2 supervision and/or up to thirty days confinement, as indicated in
3 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement
4 has been imposed, the court shall state either aggravating or
5 mitigating factors as set forth in RCW 13.40.150 (~~as now or hereafter~~
6 ~~amended~~)).

7 (c) Only if the court concludes, and enters reasons for its
8 conclusions, that disposition as provided in subsection (4)(a) or (b)
9 of this section would effectuate a manifest injustice, the court shall
10 sentence the juvenile to a maximum term, and the provisions of RCW
11 13.40.030(2)(~~, as now or hereafter amended,~~) shall be used to
12 determine the range. The court's finding of manifest injustice shall
13 be supported by clear and convincing evidence.

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

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

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

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

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

38 (ii) Specific issues to be addressed in the treatment and
39 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
21 to)) not less than two years. As a condition of the suspended
22 disposition, the court may impose the conditions of community
23 supervision and other conditions, including up to thirty days of
24 confinement and requirements that the offender do any one or more of
25 the following:

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

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

1 (iii) Remain within prescribed geographical boundaries and notify
2 the court or the ((~~probation~~)) community supervision counselor prior to
3 any change in the offender's address, educational program, or
4 employment;

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

8 (v) Report as directed to the court and a ((~~probation~~)) community
9 supervision counselor;

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

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

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

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

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

36 If the offender violates any condition of the disposition or the
37 court finds that the respondent is failing to make satisfactory
38 progress in treatment, the court may revoke the suspension and order
39 execution of the ((~~sentence~~)) disposition or the court may impose a

1 penalty of up to thirty days' confinement for violating conditions of
2 the disposition. The court may order both execution of the disposition
3 and up to thirty days' confinement for the violation of the conditions
4 of the disposition, in which case the term of confinement imposed for
5 violating conditions of the disposition shall run consecutively to the
6 term of confinement imposed under the disposition. The court shall
7 give credit for any confinement time previously served if that
8 confinement was for the offense for which the suspension is being
9 revoked.

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

15 (6) Section 309 of this act shall govern the disposition of any
16 juvenile adjudicated of possessing a firearm in violation of RCW
17 9.41.040(1)(e), delivery of a firearm in violation of RCW 9.41.080,
18 theft of a firearm as defined in section 505 of this act, or any crime
19 in which a special finding is entered that the juvenile was armed with
20 a deadly weapon as provided in section 308 of this act.

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

25 ~~((+7))~~ (8) Except as provided for in subsection (5) of this
26 section, section 304 of this act, and RCW 13.40.0357, the court shall
27 not suspend or defer the imposition or the execution of the
28 disposition.

29 ~~((+8))~~ (9) In no case shall the term of confinement imposed by the
30 court at disposition exceed that to which an adult could be subjected
31 for the same offense.

32 (10) If a court does not exercise a disposition option available
33 under this chapter due to a lack of available funds, services, or bed
34 space, the court shall enter a finding in the disposition that an
35 alternative disposition was not ordered due to the lack of available
36 funds, services, or bed space.

37 NEW SECTION. Sec. 308. A new section is added to chapter 13.40
38 RCW to read as follows:

1 A prosecutor may file a special allegation that the offender or an
2 accomplice was armed with a deadly weapon as defined in RCW 9.94A.125
3 when the offender committed the alleged offense. If a special
4 allegation has been filed and the court finds that the offender
5 committed the alleged offense, the court shall also make a finding
6 whether the offender or an accomplice was armed with a deadly weapon
7 when the offender committed the offense.

8 NEW SECTION. **Sec. 309.** A new section is added to chapter 13.40
9 RCW to read as follows:

10 (1) If a respondent is found to have been in possession of a
11 firearm in violation of RCW 9.41.040(1)(e), the court shall commit the
12 offender to the department for a minimum of sixty days confinement. If
13 the offender's standard range of disposition for the offense as
14 indicated in RCW 13.40.0357 is more than sixty days, the court shall
15 commit the offender to the standard range disposition. The department
16 shall not release the offender until the offender has served a minimum
17 of sixty days in confinement.

18 (2) If a respondent is found to have delivered a firearm in
19 violation of RCW 9.41.080, the court shall commit the offender to the
20 department for a minimum term of one hundred twenty days of
21 confinement. If the offender's standard range of disposition for the
22 offense as indicated in RCW 13.40.0357 is more than one hundred twenty
23 days, the court shall commit the offender to the standard range
24 disposition. The department shall not release the offender until the
25 offender has served a minimum of one hundred twenty days in
26 confinement.

27 (3) If a respondent is found to have committed an offense of theft
28 of a firearm as defined in section 505 of this act, the court shall
29 commit the offender to the department for a minimum of one hundred
30 twenty days confinement. If the offender's standard range of
31 disposition for the offense as indicated in RCW 13.40.0357 is more than
32 one hundred twenty days, the court shall commit the offender to the
33 standard range disposition. The department shall not release the
34 offender until the offender has served a minimum of one hundred twenty
35 days in confinement.

36 (4) If the court finds that the respondent or an accomplice was
37 armed with a deadly weapon as provided in section 308 of this act, the
38 court shall determine the standard range disposition for the offense

1 pursuant to RCW 13.40.160. Three hundred sixty-five days of
2 confinement shall be added to the entire standard range disposition if
3 the offender or an accomplice was armed with a deadly weapon when the
4 offender committed: (a) Any serious violent offense; (b) any violent
5 offense including violent sex offenses and violent drug offenses; or
6 (c) escape in the first degree (RCW 9A.76.110); burglary in the second
7 degree (RCW 9A.52.030); theft of livestock in the first or second
8 degree (RCW 9A.56.080); or any felony drug offense. If the offender or
9 an accomplice was armed with a deadly weapon and the offender is being
10 adjudicated for an anticipatory felony offense under chapter 9A.28 RCW
11 to commit one of the offenses listed in this subsection, three hundred
12 sixty-five days shall be added to the entire standard range disposition
13 of confinement. The three hundred sixty-five days shall be imposed
14 regardless of the offense's juvenile disposition offense category as
15 designated in RCW 13.40.0357. The department shall not release the
16 offender until the offender has served a minimum of three hundred
17 sixty-five days in confinement.

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

29 (6) Any term of confinement ordered pursuant to this section shall
30 run consecutively to any term of confinement imposed in the same
31 disposition for other offenses.

32 **Sec. 310.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
33 read as follows:

34 (1) Except as provided in subsection (2) of this section, where a
35 disposition is imposed on a youth for two or more offenses, the terms
36 shall run consecutively(~~(, subject to the following limitations:~~

37 ~~(1) Where the offenses were committed through a single act or~~
38 ~~omission, omission, or through an act or omission which in itself~~

1 ~~constituted one of the offenses and also was an element of the other,~~
2 ~~the aggregate of all the terms shall not exceed one hundred fifty~~
3 ~~percent of the term imposed for the most serious offense;~~

4 ~~(2) The aggregate of all consecutive terms shall not exceed three~~
5 ~~hundred percent of the term imposed for the most serious offense; and~~

6 ~~(3) The aggregate of all consecutive terms of community supervision~~
7 ~~shall not exceed two years in length, or require payment of more than~~
8 ~~two hundred dollars in fines or the performance of more than two~~
9 ~~hundred hours of community service)) or concurrently in the court's~~
10 ~~discretion.~~

11 (2) Any term of confinement ordered pursuant to section 309 of this
12 act shall run consecutively to any term of confinement imposed in the
13 same disposition for other offenses.

14 **Sec. 311.** RCW 13.40.190 and 1987 c 281 s 5 are each amended to
15 read as follows:

16 (1) In its dispositional order, the court shall require the
17 respondent and may require his or her parents, guardians, or custodians
18 to make restitution to any persons who have suffered loss or damage as
19 a result of the offense committed by the respondent. In addition,
20 restitution may be ordered for loss or damage if the offender pleads
21 guilty to a lesser offense or fewer offenses and agrees with the
22 prosecutor's recommendation that the offender be required to pay
23 restitution to a victim of an offense or offenses which, pursuant to a
24 plea agreement, are not prosecuted. The payment of restitution shall
25 be in addition to any punishment which is imposed pursuant to the other
26 provisions of this chapter. The court may determine the amount, terms,
27 and conditions of the restitution. Restitution may include the costs
28 of counseling reasonably related to the offense. If the respondent
29 participated in the crime with another person or other persons, all
30 such participants shall be jointly and severally responsible for the
31 payment of restitution. The court may not require the respondent or
32 parent, guardian, or custodian to pay full or partial restitution if
33 the respondent or parent, guardian, or custodian reasonably satisfies
34 the court that he or she does not have the means to make full or
35 partial restitution and could not reasonably acquire the means to pay
36 such restitution. In cases where an offender has been committed to the
37 department for a period of confinement exceeding fifteen weeks,
38 restitution may be waived.

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

5 (3) A respondent under obligation to pay restitution may petition
6 the court for modification of the restitution order.

7 **Sec. 312.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to
8 read as follows:

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

13 (2) The hearing shall afford the respondent the same due process of
14 law as would be afforded an adult probationer. The court may issue a
15 summons or a warrant to compel the respondent's appearance. The state
16 shall have the burden of proving by a preponderance of the evidence the
17 fact of the violation. The respondent shall have the burden of showing
18 that the violation was not a wilful refusal to comply with the terms of
19 the order. If a respondent has failed to pay a fine, penalty
20 assessments, or restitution or to perform community service hours, as
21 required by the court, it shall be the respondent's burden to show that
22 he or she did not have the means and could not reasonably have acquired
23 the means to pay the fine, penalty assessments, or restitution or
24 perform community service.

25 (3)(a) If the court finds that a respondent has wilfully violated
26 the terms of an order pursuant to subsections (1) and (2) of this
27 section, it may impose a penalty of up to thirty days' confinement or
28 other conditions of community supervision the court considers
29 appropriate. Penalties for multiple violations occurring prior to the
30 hearing shall not be aggregated to exceed thirty days' confinement.
31 Regardless of the number of times a respondent is brought to court for
32 violations of the terms of a single disposition order, the combined
33 total number of days spent by the respondent in detention shall never
34 exceed the maximum term to which an adult could be sentenced for the
35 underlying offense.

36 (b) If the violation of the terms of the order under (a) of this
37 subsection is failure to pay fines, penalty assessments, complete
38 community service, or make restitution, the term of confinement imposed

1 under (a) of this subsection shall be assessed at a rate of one day of
2 confinement for each twenty-five dollars or eight hours owed.

3 (4) If a respondent has been ordered to pay a fine or monetary
4 penalty and due to a change of circumstance cannot reasonably comply
5 with the order, the court, upon motion of the respondent, may order
6 that the unpaid fine or monetary penalty be converted to community
7 service. The number of hours of community service in lieu of a
8 monetary penalty or fine shall be converted at the rate of the
9 prevailing state minimum wage per hour. The monetary penalties or
10 fines collected shall be deposited in the county general fund. A
11 failure to comply with an order under this subsection shall be deemed
12 a failure to comply with an order of community supervision and may be
13 proceeded against as provided in this section.

14 **Sec. 313.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to
15 read as follows:

16 (1) The secretary shall, except in the case of a juvenile committed
17 by a court to a term of confinement in a state institution outside the
18 appropriate standard range for the offense(s) for which the juvenile
19 was found to be guilty established pursuant to RCW 13.40.030, (~~as now~~
20 ~~or hereafter amended,~~) set a release or discharge date for each
21 juvenile committed to its custody (~~which~~). The release or discharge
22 date shall be within the prescribed range to which a juvenile has been
23 committed except as provided in section 402 of this act concerning
24 offenders the department determines are eligible for the juvenile
25 offender basic training camp program. Such dates shall be determined
26 prior to the expiration of sixty percent of a juvenile's minimum term
27 of confinement included within the prescribed range to which the
28 juvenile has been committed. The secretary shall release any juvenile
29 committed to the custody of the department within four calendar days
30 prior to the juvenile's release date or on the release date set under
31 this chapter(~~:- PROVIDED, That~~). Days spent in the custody of the
32 department shall be tolled by any period of time during which a
33 juvenile has absented himself or herself from the department's
34 supervision without the prior approval of the secretary or the
35 secretary's designee.

36 (2) The secretary shall monitor the average daily population of the
37 state's juvenile residential facilities. When the secretary concludes
38 that in-residence population of residential facilities exceeds one

1 hundred five percent of the rated bed capacity specified in statute, or
2 in absence of such specification, as specified by the department in
3 rule, the secretary may recommend reductions to the governor. On
4 certification by the governor that the recommended reductions are
5 necessary, the secretary has authority to administratively release a
6 sufficient number of offenders to reduce in-residence population to one
7 hundred percent of rated bed capacity. The secretary shall release
8 those offenders who have served the greatest proportion of their
9 sentence. However, the secretary may deny release in a particular case
10 at the request of an offender, or if the secretary finds that there is
11 no responsible custodian, as determined by the department, to whom to
12 release the offender, or if the release of the offender would pose a
13 clear danger to society. The department shall notify the committing
14 court of the release at the ~~((end of each calendar year))~~ time of
15 release if any such early releases have occurred ~~((during that year))~~
16 as a result of excessive in-residence population. In no event shall
17 ~~((a serious))~~ an offender~~((, as defined in RCW 13.40.020(1))~~
18 adjudicated of a violent offense be granted release under the
19 provisions of this subsection.

20 (3) Following the juvenile's release pursuant to subsection (1) of
21 this section, the secretary may require the juvenile to comply with a
22 program of parole to be administered by the department in his or her
23 community which shall last no longer than eighteen months, except that
24 in the case of a juvenile sentenced for rape in the first or second
25 degree, rape of a child in the first or second degree, child
26 molestation in the first degree, or indecent liberties with forcible
27 compulsion, the period of parole shall be twenty-four months. A parole
28 program is mandatory for offenders released under subsection (2) of
29 this section. The secretary shall, for the period of parole,
30 facilitate the juvenile's reintegration into his or her community and
31 to further this goal may require the juvenile to: (a) Undergo
32 available medical or psychiatric treatment; (b) report as directed to
33 a parole officer; (c) pursue a course of study or vocational training;
34 (d) remain within prescribed geographical boundaries and notify the
35 department of any change in his or her address; and (e) refrain from
36 committing new offenses. After termination of the parole period, the
37 juvenile shall be discharged from the department's supervision.

38 (4) The department may also modify parole for violation thereof.
39 If, after affording a juvenile all of the due process rights to which

1 he or she would be entitled if the juvenile were an adult, the
2 secretary finds that a juvenile has violated a condition of his or her
3 parole, the secretary shall order one of the following which is
4 reasonably likely to effectuate the purpose of the parole and to
5 protect the public: (a) Continued supervision under the same
6 conditions previously imposed; (b) intensified supervision with
7 increased reporting requirements; (c) additional conditions of
8 supervision authorized by this chapter; (d) except as provided in (e)
9 of this subsection, imposition of a period of confinement not to exceed
10 thirty days in a facility operated by or pursuant to a contract with
11 the state of Washington or any city or county for a portion of each day
12 or for a certain number of days each week with the balance of the days
13 or weeks spent under supervision; and (e) the secretary may order any
14 of the conditions or may return the offender to confinement in an
15 institution for the remainder of the sentence range if the offense for
16 which the offender was sentenced is rape in the first or second degree,
17 rape of a child in the first or second degree, child molestation in the
18 first degree, indecent liberties with forcible compulsion, or a sex
19 offense that is also a serious violent offense as defined by RCW
20 9.94A.030.

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

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

28 **Sec. 314.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
29 read as follows:

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

33 An appeal under this section shall be heard solely upon the record
34 that was before the disposition court. No written briefs may be
35 required, and the appeal shall be heard within thirty days following
36 the date of sentencing and a decision rendered within fifteen days
37 following the argument. The supreme court shall promulgate any
38 necessary rules to effectuate the purposes of this section.

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

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

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

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

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

27 NEW SECTION. **Sec. 315.** A new section is added to chapter 13.40
28 RCW to read as follows:

29 To reduce the likelihood that implementation of this chapter will
30 differentially and unjustifiably affect the outcomes of cases involving
31 youth of color accused of crimes, all youth prosecuted for offenses
32 under this chapter must be charged and prosecuted in accordance with
33 the prosecutorial guidelines developed in accordance with section 8,
34 chapter 415, Laws of 1993 as amended by section 316, chapter . . . ,
35 Laws of 1994 (section 316 of this act).

36 **Sec. 316.** 1993 c 415 s 8 (uncodified) is amended to read as
37 follows:

1 The administrator for the courts shall convene a working group to
2 develop standards and guidelines for the prosecution of juvenile
3 offenders under Title 13 RCW, review any racial disproportionality in
4 diversion, and review the use of detention facilities in a way to
5 reduce racial disproportionality. The administrator shall appoint:

6 (1) One defense attorney familiar with juvenile justice, and three
7 prosecuting attorneys familiar with juvenile justice;

8 (2) One superior court judge;

9 (3) One court commissioner;

10 (4) One juvenile court administrator;

11 (5) One representative of the juvenile disposition standards board;

12 (6) One representative of the department of social and health
13 services;

14 (7) One social researcher with expertise in juvenile or criminal
15 justice;

16 (8) Two representatives of child advocacy groups recommended by the
17 governor; and

18 (9) Two persons recommended jointly by the Washington state
19 minority commissions.

20 Prosecutorial guidelines for charging youth under chapter 13.40 RCW
21 and for filing charges against youth which will or may result in youth
22 being prosecuted as adults under RCW 13.40.100 shall be racially
23 neutral. The standards shall also include a review mechanism to ensure
24 that the standards result in equitable and racially neutral filing and
25 prosecution practices. The work group shall develop and submit its
26 recommended standards and guidelines to the appropriate committees of
27 the legislature by December 1, 1994.

28 **SUBPART D: JUVENILE OFFENDER BASIC TRAINING CAMP PROGRAM**

29 NEW SECTION. Sec. 401. The legislature finds that the number of
30 juvenile offenders and the severity of their crimes is increasing
31 rapidly state-wide. In addition, many juvenile offenders continue to
32 reoffend after they are released from the juvenile justice system
33 causing disproportionately high and expensive rates of recidivism.

34 The legislature further finds that juvenile criminal behavior is
35 often the result of a lack of self-discipline, the lack of systematic
36 work habits and ethics, the inability to deal with authority figures,
37 and an unstable or unstructured living environment. The legislature

1 further finds that the department of social and health services
2 currently operates an insufficient number of confinement beds to meet
3 the rapidly growing juvenile offender population. Together these
4 factors are combining to produce a serious public safety hazard and the
5 need to develop more effective and stringent juvenile punishment and
6 rehabilitation options.

7 The legislature intends that juvenile offenders who enter the state
8 rehabilitation system have the opportunity and are given the
9 responsibility to become more effective participants in society by
10 enhancing their personal development, work ethics, and life skills.
11 The legislature recognizes that structured incarceration programs for
12 juvenile offenders such as juvenile offender basic training camps, can
13 instill the self-discipline, accountability, self-esteem, and work
14 ethic skills that could discourage many offenders from returning to the
15 criminal justice system. Juvenile offender basic training camp
16 incarceration programs generally emphasize life skills training,
17 prevocational work skills training, anger management, dealing with
18 difficult at-home family problems and/or abuses, discipline, physical
19 training, structured and intensive work activities, and educational
20 classes. The legislature further recognizes that juvenile offenders
21 can benefit from a highly structured basic training camp environment
22 and the public can also benefit through increased public protection and
23 reduced cost due to lowered rates of recidivism.

24 NEW SECTION. **Sec. 402.** A new section is added to chapter 13.40
25 RCW to read as follows:

26 (1) The department of social and health services shall establish
27 and operate a medium security juvenile offender basic training camp
28 program. The department shall site a juvenile offender basic training
29 camp facility in the most cost-effective facility possible and shall
30 review the possibility of using an existing abandoned and/or available
31 state, federally, or military-owned site or facility.

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

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

5 (4) The juvenile offender basic training camp shall be a structured
6 and regimented model lasting one hundred twenty days emphasizing the
7 building up of an offender's self-esteem, confidence, and discipline.
8 The juvenile offender basic training camp program shall provide
9 participants with basic education, prevocational training, work-based
10 learning, live work, work ethic skills, conflict resolution counseling,
11 substance abuse intervention, anger management counseling, and
12 structured intensive physical training. The juvenile offender basic
13 training camp program shall have a curriculum training and work
14 schedule that incorporates a balanced assignment of these or other
15 rehabilitation and training components for no less than sixteen hours
16 per day, six days a week.

17 The department shall adopt rules for the safe and effective
18 operation of the juvenile offender basic training camp program,
19 standards for an offender's successful program completion, and rules
20 for the continued after-care supervision of offenders who have
21 successfully completed the program.

22 (5) Offenders eligible for the juvenile offender basic training
23 camp option shall be those with a disposition of at least fifty-two
24 weeks but not more than seventy-eight weeks. Violent and sex offenders
25 shall not be eligible for the juvenile offender basic training camp
26 program.

27 (6) All juvenile offenders eligible for the juvenile offender basic
28 training camp sentencing option shall spend the first one hundred
29 twenty days of their disposition in a juvenile offender basic training
30 camp. If the juvenile offender's activities while in the juvenile
31 offender basic training camp are so disruptive to the juvenile offender
32 basic training camp program, as determined by the secretary according
33 to rules adopted by the department, as to result in the removal of the
34 juvenile offender from the juvenile offender basic training camp
35 program, or if the offender cannot complete the juvenile offender basic
36 training camp program due to medical problems, the secretary shall
37 require that the offender be committed to a juvenile institution to
38 serve the entire remainder of his or her disposition, less the amount

1 of time already served in the juvenile offender basic training camp
2 program.

3 (7) All offenders who successfully graduate from the one hundred
4 twenty day juvenile offender basic training camp program shall spend
5 the remainder of their disposition on parole in a division of juvenile
6 rehabilitation intensive aftercare program in the local community. The
7 program shall provide for the needs of the offender based on his or her
8 progress in the aftercare program as indicated by ongoing assessment of
9 those needs and progress. The intensive aftercare program shall
10 monitor postprogram juvenile offenders and assist them to successfully
11 reintegrate into the community. In addition, the program shall develop
12 a process for closely monitoring and assessing public safety risks.
13 The intensive aftercare program shall be designed and funded by the
14 department of social and health services.

15 (8) No juvenile who suffers from any mental or physical problems
16 that could endanger his or her health or drastically affect his or her
17 performance in the program shall be admitted to or retained in the
18 juvenile offender basic training camp program.

19 (9) The department shall also develop and maintain a database to
20 measure recidivism rates specific to this incarceration program. The
21 data base shall maintain data on all juvenile offenders who complete
22 the juvenile offender basic training camp program for a period of two
23 years after they have completed the program. The data base shall also
24 maintain data on the criminal activity, educational progress, and
25 employment activities of all juvenile offenders who participated in the
26 program. The department shall produce an outcome evaluation report on
27 the progress of the juvenile offender basic training camp program to
28 the appropriate committees of the legislature no later than December
29 12, 1996.

30 **SUBPART E: CRIMES AND CLASSIFICATIONS**

31 **Sec. 501.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are
32 each reenacted and amended to read as follows:

33 (1) A person is guilty of the crime of unlawful possession of a
34 ~~((short))~~ firearm ~~((or pistol,))~~ if ~~((, having previously been convicted~~
35 ~~or, as a juvenile, adjudicated in this state or elsewhere of a crime of~~
36 ~~violence or of a felony in which a firearm was used or displayed,))~~ the

1 person owns (~~or~~), has in his or her possession, or has in his or her
2 control any (~~short~~) firearm (~~or pistol~~):

3 (a) After having previously been convicted or, as a juvenile,
4 adjudicated delinquent in this state or elsewhere of a crime of
5 violence or of a felony in which a firearm was used or displayed,
6 except as otherwise provided in subsection (4) of this section;

7 (b) After having previously been convicted of or adjudicated
8 delinquent for any felony violation of the uniform controlled
9 substances act, chapter 69.50 RCW, or equivalent statutes of another
10 jurisdiction, except as otherwise provided in subsection (4) of this
11 section;

12 (c) After having previously been convicted on three occasions of
13 driving a motor vehicle or operating a vessel while under the influence
14 of intoxicating liquor or any drug;

15 (d) After having previously been committed for mental health
16 treatment, either voluntarily for a period exceeding fourteen
17 continuous days, or involuntarily under RCW 71.05.320, chapter 10.77
18 RCW, or equivalent statutes of another jurisdiction, unless his or her
19 right to own, possess, or control a firearm has been restored as
20 provided in section 503 of this act; or

21 (e) If the person is under eighteen years of age, except as
22 provided in section 502 of this act.

23 (2) Unlawful possession of a (~~short~~) firearm (~~or pistol shall be~~
24 punished as)) is a class C felony, punishable under chapter 9A.20 RCW.

25 (3) As used in this section, a person has been "convicted or
26 adjudicated" at such time as a plea of guilty has been accepted or a
27 verdict of guilty has been filed, notwithstanding the pendency of any
28 future proceedings including but not limited to sentencing or
29 disposition, post-trial or post-factfinding motions, and appeals. A
30 person shall not be precluded from ownership, possession, or control of
31 a firearm if the conviction or adjudication has been the subject of a
32 pardon, annulment, certificate of rehabilitation, or other equivalent
33 procedure based on a finding of the rehabilitation of the person
34 convicted or adjudicated or the conviction or disposition has been the
35 subject of a pardon, annulment, or other equivalent procedure based on
36 a finding of innocence.

37 (~~4) (~~Except as provided in subsection (5) of this section, a~~~~
38 ~~person is guilty of the crime of unlawful possession of a short firearm~~
39 ~~or pistol if, after having been convicted or adjudicated of any felony~~

1 ~~violation of the uniform controlled substances act, chapter 69.50 RCW,~~
2 ~~or equivalent statutes of another jurisdiction, the person owns or has~~
3 ~~in his or her possession or under his or her control any short firearm~~
4 ~~or pistol.~~

5 ~~(5))~~ Notwithstanding subsection (1) of this section, a person
6 convicted of an offense other than murder, manslaughter, robbery, rape,
7 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
8 violations with respect to controlled substances under RCW 69.50.401(a)
9 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
10 and who received a dismissal of the charge under RCW 9.95.240, shall
11 not be precluded from ownership, possession, or control of a firearm as
12 a result of the conviction.

13 ~~((6)(a) A person who has been committed by court order for~~
14 ~~treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,~~
15 ~~or equivalent statutes of another jurisdiction, may not possess, in any~~
16 ~~manner, a firearm as defined in RCW 9.41.010.~~

17 ~~(b) At the time of commitment, the court shall specifically state~~
18 ~~to the person under (a) of this subsection and give the person notice~~
19 ~~in writing that the person is barred from possession of firearms.~~

20 ~~(c) The secretary of social and health services shall develop~~
21 ~~appropriate rules to create an approval process under this subsection.~~
22 ~~The rules must provide for the immediate restoration of the right to~~
23 ~~possess a firearm upon a showing in a court of competent jurisdiction~~
24 ~~that a person no longer is required to participate in an inpatient or~~
25 ~~outpatient treatment program, and is no longer required to take~~
26 ~~medication to treat any condition related to the commitment. Unlawful~~
27 ~~possession of a firearm under this subsection shall be punished as a~~
28 ~~class C felony under chapter 9A.20 RCW.))~~

29 NEW SECTION. Sec. 502. A new section is added to chapter 9.41 RCW
30 to read as follows:

31 RCW 9.41.040(1)(e) shall not apply to any person under the age of
32 eighteen years who is:

33 (1) In attendance at a hunter's safety course or a firearms safety
34 course;

35 (2) Engaging in practice in the use of a firearm or target shooting
36 at an established range authorized by the governing body of the
37 jurisdiction in which such range is located or any other area where the
38 discharge of a firearm is not prohibited;

1 (3) Engaging in an organized competition involving the use of a
2 firearm, or participating in or practicing for a performance by an
3 organized group that uses firearms as a part of the performance;

4 (4) Hunting or trapping under a valid license issued to the person
5 under Title 77 RCW;

6 (5) In an area where the discharge of a firearm is permitted, is
7 not trespassing, and the person either: (a) Is at least fifteen years
8 of age, has been issued a hunter safety certificate, and is using a
9 lawful firearm other than a pistol; or (b) is under the supervision of
10 a parent, guardian, or other adult approved for the purpose by the
11 parent or guardian;

12 (6) Traveling with any unloaded firearm in the person's possession
13 to or from any activity described in subsection (1), (2), (3), (4), or
14 (5) of this section;

15 (7) On real property under the control of his or her parent, other
16 relative, or legal guardian and who has the permission of the parent or
17 legal guardian to possess a firearm;

18 (8) At his or her residence and who, with the permission of his or
19 her parent or legal guardian, possesses a firearm for the purpose of
20 exercising the rights specified in RCW 9A.16.020(3); or

21 (9) Is a member of the armed forces of the United States, national
22 guard, or organized reserves, when on duty.

23 NEW SECTION. **Sec. 503.** A new section is added to chapter 9.41 RCW
24 to read as follows:

25 (1)(a) At the time a person is convicted of, or adjudicated
26 delinquent for, an offense making the person ineligible to own,
27 possess, or control a firearm, or at the time a person is committed by
28 court order under RCW 71.05.320 or chapter 10.77 RCW for mental health
29 treatment, the convicting or committing court shall notify the person,
30 orally and in writing, that the person may not own, possess, or control
31 a firearm unless his or her right to do so is restored by a court of
32 record.

33 The convicting or committing court also shall forward a copy of the
34 person's driver's license or identicard, or comparable information, to
35 the department of licensing, along with the date of conviction or
36 commitment.

37 (b) Upon the expiration of fourteen days of treatment of a person
38 voluntarily committed, if the period of voluntary commitment is to

1 continue, the institution, hospital, or sanitarium shall notify the
2 person, orally and in writing, that the person may not own, possess, or
3 control a firearm unless his or her right to do so is restored by a
4 court of record.

5 Following fourteen continuous days of treatment, the institution,
6 hospital, or sanitarium also shall forward a copy of the person's
7 driver's license or identicard, or comparable information, to the
8 department of licensing, along with the date of voluntary commitment.

9 (2) Upon receipt of the information provided for by subsection (1)
10 of this section, the department of licensing shall determine if the
11 convicted or committed person has a concealed pistol license. If the
12 person does have a concealed pistol license, the department of
13 licensing shall immediately notify the license-issuing authority.

14 (3) A person who is prohibited from owning, possessing, or having
15 in his or her control a firearm, by reason of having been either:

16 (a) Voluntarily committed for mental health treatment for a period
17 exceeding fourteen continuous days; or

18 (b) Involuntarily committed for mental health treatment under RCW
19 71.05.320, chapter 10.77 RCW, or equivalent statutes of another
20 jurisdiction,
21 may, upon discharge, petition a court of record to have his or her
22 right to own, possess, or control a firearm restored.

23 (4) At a minimum, a petition under this section shall include the
24 following:

25 (a) The fact, date, and place of commitment;

26 (b) The place of treatment;

27 (c) The fact and date of release from commitment;

28 (d) A certified copy of the most recent order, if one exists, of
29 commitment, with the findings of fact and conclusions of law; and

30 (e) A statement by the person that he or she is no longer required
31 to participate in an inpatient or outpatient treatment program, is no
32 longer required to take medication to treat any condition related to
33 the commitment, and does not present a substantial danger to himself or
34 herself, to others, or to the public safety.

35 (5) A person petitioning the court under this section shall bear
36 the burden of proving by a preponderance of the evidence that the
37 circumstances resulting in the commitment no longer exist and are not
38 reasonably likely to recur.

1 **Sec. 504.** RCW 9.41.080 and 1935 c 172 s 8 are each amended to read
2 as follows:

3 No person shall deliver a pistol to any person (~~((under the age of~~
4 ~~twenty one or to one))~~) who he or she has reasonable cause to believe
5 (~~((has been convicted of a crime of violence, or is a drug addict, an~~
6 ~~habitual drunkard, or of unsound mind))~~) is ineligible under RCW
7 9.41.040 to own, possess, or control a firearm. Any person violating
8 this section is guilty of a class C felony, punishable under chapter
9 9A.20 RCW.

10 NEW SECTION. **Sec. 505.** A new section is added to chapter 9A.56
11 RCW to read as follows:

- 12 (1) A person is guilty of theft of a firearm if the person:
13 (a) Commits a theft of a firearm;
14 (b) Is in possession of a stolen firearm;
15 (c) Delivers a stolen firearm;
16 (d) Possesses with intent to deliver a stolen firearm; or
17 (e) Sells a stolen firearm.
18 (2) This section applies regardless of the stolen firearm's value.
19 (3) Theft of a firearm is a class B felony.

20 **Sec. 506.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to
21 read as follows:

- 22 (1) A person is guilty of theft in the second degree if he or she
23 commits theft of:
24 (a) Property or services which exceed(s) two hundred and fifty
25 dollars in value, but does not exceed one thousand five hundred dollars
26 in value; or
27 (b) A public record, writing, or instrument kept, filed, or
28 deposited according to law with or in the keeping of any public office
29 or public servant; or
30 (c) An access device; or
31 (d) A motor vehicle, of a value less than one thousand five hundred
32 dollars(~~(; or~~
33 ~~(e) A firearm, of a value less than one thousand five hundred~~
34 ~~dollars))~~).
35 (2) Theft in the second degree is a class C felony.

1 **Sec. 507.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to
2 read as follows:

3 (1) A person is guilty of possessing stolen property in the second
4 degree if:

5 (a) He or she possesses stolen property which exceeds two hundred
6 fifty dollars in value but does not exceed one thousand five hundred
7 dollars in value; or

8 (b) He or she possesses a stolen public record, writing or
9 instrument kept, filed, or deposited according to law; or

10 (c) He or she possesses a stolen access device; or

11 (d) He or she possesses a stolen motor vehicle of a value less than
12 one thousand five hundred dollars(~~(+or~~

13 ~~(e) He possesses a stolen firearm~~)).

14 (2) Possessing stolen property in the second degree is a class C
15 felony.

16 **Sec. 508.** RCW 9A.36.045 and 1989 c 271 s 109 are each amended to
17 read as follows:

18 (1) A person is guilty of reckless endangerment in the first degree
19 when he or she recklessly discharges a firearm in a manner which
20 creates a substantial risk of death or serious physical injury to
21 another person and the discharge is either from a motor vehicle or from
22 the immediate area of a motor vehicle that was used to transport the
23 shooter or the firearm to the scene of the discharge.

24 (2) A person who unlawfully discharges a firearm from a moving
25 motor vehicle may be inferred to have engaged in reckless conduct,
26 unless the discharge is shown by evidence satisfactory to the trier of
27 fact to have been made without such recklessness.

28 (3) Reckless endangerment in the first degree is a class ((C)) B
29 felony.

30 NEW SECTION. **Sec. 509.** The juvenile disposition standards
31 commission shall make a recommendation to the legislature concerning
32 what juvenile disposition offense category should be assigned to the
33 crime of theft of a firearm as created in section 505 of this act and
34 to the crime of reckless endangerment in the first degree, RCW
35 9A.36.045. The recommendation shall be presented to the legislature no
36 later than November 1, 1994.

1 (4) A law enforcement officer who reasonably believes a youth is in
2 violation of subsection (2) of this section may take the youth into
3 custody pursuant to RCW 13.32A.050 and transport the youth to his or
4 her home or to a residential center as provided for in RCW 13.32A.060
5 or to another facility in which the youth will be supervised by an
6 adult for the duration of the curfew period.

7 (5) A youth who has been transported to his or her home or to a
8 residential center for a violation of subsection (2) of this section,
9 and who during the same curfew period of the same day again violates
10 subsection (2) of this section, is guilty of a misdemeanor.

11 **Sec. 603.** RCW 13.32A.050 and 1990 c 276 s 5 are each amended to
12 read as follows:

13 A law enforcement officer shall take a child into custody:

14 (1) If a law enforcement agency has been contacted by the parent of
15 the child that the child is absent from parental custody without
16 consent; or

17 (2) If a law enforcement officer reasonably believes, considering
18 the child's age, the location, and the time of day, that a child is in
19 circumstances which constitute a danger to the child's safety or that
20 a child is violating section 602 of this act or a local curfew
21 ordinance; or

22 (3) If an agency legally charged with the supervision of a child
23 has notified a law enforcement agency that the child has run away from
24 placement; or

25 (4) If a law enforcement agency has been notified by the juvenile
26 court that the court finds probable cause exists to believe that the
27 child has violated a court placement order issued pursuant to chapter
28 13.32A RCW or that the court has issued an order for law enforcement
29 pick-up of the child under this chapter.

30 Law enforcement custody shall not extend beyond the amount of time
31 reasonably necessary to transport the child to a destination authorized
32 by law and to place the child at that destination.

33 An officer who takes a child into custody under this section and
34 places the child in a designated crisis residential center shall inform
35 the department of such placement within twenty-four hours.

36 (5) Nothing in this section affects the authority of any political
37 subdivision to make regulations concerning the conduct of minors in
38 public places by ordinance or other local law.

1 (6) If a law enforcement officer has a reasonable suspicion that a
2 child is being unlawfully harbored under RCW 13.32A.080, the officer
3 shall remove the child from the custody of the person harboring the
4 child and shall transport the child to one of the locations specified
5 in RCW 13.32A.060.

6 NEW SECTION. Sec. 604. A new section is added to chapter 35.21
7 RCW to read as follows:

8 A town, city, or county may by resolution exempt itself from the
9 provisions of section 602 of this act. A city, town, or county may
10 adopt a local curfew ordinance so long as it does not deviate from
11 section 602 of this act by:

12 (1) Expanding the hours of curfew either by extending them to
13 before midnight or after 5:00 a.m.;

14 (2) Applying a curfew to persons seventeen years of age or older;

15 (3) Eliminating or diminishing any of the exceptions provided in
16 section 602(2) of this act; or

17 (4) Providing any greater penalty.

18 **Sec. 605.** RCW 13.32A.060 and 1985 c 257 s 8 are each amended to
19 read as follows:

20 (1) An officer taking a child into custody under RCW 13.32A.050 (1)
21 or (2) shall inform the child of the reason for such custody and shall
22 either:

23 (a) Transport the child to his or her home. The officer releasing
24 a child into the custody of the parent shall inform the parent of the
25 reason for the taking of the child into custody and shall inform the
26 child and the parent of the nature and location of appropriate services
27 available in their community; or

28 (b) Take the child to the home of an adult extended family member,
29 a designated crisis residential center, or the home of a responsible
30 adult after attempting to notify the parent or legal guardian:

31 (i) If the child (~~(evinces)~~) expresses fear or distress at the
32 prospect of being returned to his or her home(~~(i-or~~

33 ~~(ii) If the officer believes)~~) which leads the officer to believe
34 there is a possibility that the child is experiencing in the home some
35 type of child abuse or neglect, as defined in RCW 26.44.020, as now law
36 or hereafter amended; or

1 (~~(iii)~~) (ii) If it is not practical to transport the child to his
2 or her home; or

3 (~~(iv)~~) (iii) If there is no parent available to accept custody of
4 the child.

5 The officer releasing a child into the custody of an extended
6 family member or a responsible adult shall inform the child and the
7 extended family member or responsible adult of the nature and location
8 of appropriate services available in the community.

9 (2) An officer taking a child into custody under RCW 13.32A.050 (3)
10 or (4) shall inform the child of the reason for custody, and shall take
11 the child to a designated crisis residential center licensed by the
12 department and established pursuant to chapter 74.13 RCW. However, an
13 officer taking a child into custody under RCW 13.32A.050(4) may place
14 the child in a juvenile detention facility as provided in RCW
15 13.32A.065. The department shall ensure that all the enforcement
16 authorities are informed on a regular basis as to the location of the
17 designated crisis residential center or centers in their judicial
18 district, where children taken into custody under RCW 13.32A.050 may be
19 taken.

20 **Sec. 606.** RCW 13.32A.080 and 1981 c 298 s 6 are each amended to
21 read as follows:

22 (1)(a) A person commits the crime of unlawful harboring of a minor
23 if the person provides shelter to a minor without the consent of a
24 parent of the minor and after the person knows that the minor is away
25 from the home of the parent, without the parent's permission, and if
26 the person intentionally:

27 (i) Fails to release the minor to a law enforcement officer after
28 being requested to do so by the officer; or

29 (ii) Fails to disclose the location of the minor to a law
30 enforcement officer after being requested to do so by the officer, if
31 the person knows the location of the minor and had either taken the
32 minor to that location or had assisted the minor in reaching that
33 location; or

34 (iii) Obstructs a law enforcement officer from taking the minor
35 into custody; or

36 (iv) Assists the minor in avoiding or attempting to avoid the
37 custody of the law enforcement officer.

1 (b) It is a defense to a prosecution under this section that the
2 defendant had custody of the minor pursuant to a court order.

3 (2) ~~Harboring a minor is punishable as a gross misdemeanor ((if the~~
4 ~~offender has not been previously convicted under this section and a~~
5 ~~gross misdemeanor if the offender has been previously convicted under~~
6 ~~this section))~~.

7 (3) Any person who provides shelter to a child, absent from home,
8 may notify the department's local community service office of the
9 child's presence.

10 (4) An adult responsible for involving a child in the commission of
11 an offense may be prosecuted under existing criminal statutes
12 including, but not limited to:

13 (a) Distribution of a controlled substance to a minor, as defined
14 in RCW 69.50.406;

15 (b) Promoting prostitution as defined in chapter 9A.88 RCW; and

16 (c) Complicity of the adult in the crime of a minor, under RCW
17 9A.08.020.

18 **Sec. 607.** RCW 13.32A.130 and 1992 c 205 s 206 are each amended to
19 read as follows:

20 A child admitted to a crisis residential center under this chapter
21 who is not returned to the home of his or her parent or who is not
22 placed in an alternative residential placement under an agreement
23 between the parent and child, shall, except as provided for by RCW
24 13.32A.140 and 13.32A.160(2), reside in (~~such~~) the placement under
25 the rules (~~and regulations~~) established for the center for a period
26 not to exceed five consecutive days from the time of intake, except as
27 otherwise provided by this chapter. Crisis residential center staff
28 shall make a concerted effort to achieve a reconciliation of the
29 family. If a reconciliation and voluntary return of the child has not
30 been achieved within forty-eight hours from the time of intake, and if
31 the person in charge of the center does not consider it likely that
32 reconciliation will be achieved within the five-day period, then the
33 person in charge shall inform the parent and child of (1) the
34 availability of counseling services; (2) the right to file a petition
35 for an alternative residential placement, the right of a parent to file
36 an at-risk youth petition, and the right of the parent and child to
37 obtain assistance in filing the petition; and (3) the right to request
38 a review of any alternative residential placement(~~(: PROVIDED, That)~~).

1 At no time shall information regarding a parent's or child's rights be
2 withheld if requested(~~(:—PROVIDED FURTHER, That)~~). The department
3 shall develop and distribute to all law enforcement agencies and to
4 each crisis residential center administrator a written statement
5 delineating (~~(such)~~) the services and rights. Every officer taking a
6 child into custody shall provide the child and his or her parent(s) or
7 responsible adult with whom the child is placed with a copy of (~~(such)~~)
8 the statement. In addition, the administrator of the facility or his
9 or her designee shall provide every resident and parent with a copy of
10 (~~(such)~~) the statement.

11 NEW SECTION. Sec. 608. A new section is added to chapter 74.13
12 RCW to read as follows:

13 The department of social and health services shall maintain a toll-
14 free hotline to assist parents of runaway children. The hotline shall
15 provide parents with a complete description of their rights when
16 dealing with their runaway child.

17 NEW SECTION. Sec. 609. A new section is added to chapter 43.101
18 RCW to read as follows:

19 The criminal justice training commission shall ensure that every
20 law enforcement agency in the state has an accurate and up-to-date
21 policy manual describing the statutes relating to juvenile runaways.

22 NEW SECTION. Sec. 610. If section 608 of this act is not
23 specifically referenced in the supplemental operating budget by June
24 30, 1994, section 608 of this act shall be null and void.

25 **SUBPART G: FAMILY AND JUVENILE COURT JURISDICTION**

26 **Sec. 701.** RCW 13.04.030 and 1988 c 14 s 1 are each amended to read
27 as follows:

28 (1) Except as provided in subsection (2) of this section, the
29 juvenile courts in the several counties of this state, shall have
30 exclusive original jurisdiction over all proceedings:

31 (~~((1))~~) (a) Under the interstate compact on placement of children
32 as provided in chapter 26.34 RCW;

1 (~~(2)~~) (b) Relating to children alleged or found to be dependent
2 as provided in chapter 26.44 RCW and in RCW 13.34.030 through
3 13.34.170(~~(, as now or hereafter amended)~~);

4 (~~(3)~~) (c) Relating to the termination of a parent and child
5 relationship as provided in RCW 13.34.180 through 13.34.210(~~(, as now
6 or hereafter amended)~~);

7 (~~(4)~~) (d) To approve or disapprove alternative residential
8 placement as provided in RCW 13.32A.170;

9 (~~(5)~~) (e) Relating to juveniles alleged or found to have
10 committed offenses, traffic infractions, or violations as provided in
11 RCW 13.40.020 through 13.40.230, (~~(as now or hereafter amended,~~)
12 unless:

13 (~~(a)~~) (i) The juvenile court transfers jurisdiction of a
14 particular juvenile to adult criminal court pursuant to RCW
15 13.40.110(~~(, as now or hereafter amended)~~); or

16 (~~(b)~~) (ii) The statute of limitations applicable to adult
17 prosecution for the offense, traffic infraction, or violation has
18 expired; or

19 (~~(c)~~) (iii) The alleged offense or infraction is a traffic, fish,
20 boating, or game offense or traffic infraction committed by a juvenile
21 sixteen years of age or older and would, if committed by an adult, be
22 tried or heard in a court of limited jurisdiction, in which instance
23 the appropriate court of limited jurisdiction shall have jurisdiction
24 over the alleged offense or infraction: PROVIDED, That if such an
25 alleged offense or infraction and an alleged offense or infraction
26 subject to juvenile court jurisdiction arise out of the same event or
27 incident, the juvenile court may have jurisdiction of both matters:
28 PROVIDED FURTHER, That the jurisdiction under this subsection does not
29 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
30 or (e)(i) of this subsection (~~(5)(a) of this section)~~): PROVIDED
31 FURTHER, That courts of limited jurisdiction which confine juveniles
32 for an alleged offense or infraction may place juveniles in juvenile
33 detention facilities under an agreement with the officials responsible
34 for the administration of the juvenile detention facility in RCW
35 13.04.035 and 13.20.060;

36 (~~(6)~~) (f) Under the interstate compact on juveniles as provided
37 in chapter 13.24 RCW;

1 (~~(7)~~) (g) Relating to termination of a diversion agreement under
2 RCW 13.40.080 (~~as now or hereafter amended~~), including a proceeding
3 in which the divertee has attained eighteen years of age; and

4 (~~(8)~~) (h) Relating to court validation of a voluntary consent to
5 foster care placement under chapter 13.34 RCW, by the parent or Indian
6 custodian of an Indian child, except if the parent or Indian custodian
7 and child are residents of or domiciled within the boundaries of a
8 federally recognized Indian reservation over which the tribe exercises
9 exclusive jurisdiction.

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

14 **Sec. 702.** RCW 26.12.010 and 1991 c 367 s 11 are each amended to
15 read as follows:

16 (1) Each superior court shall exercise the jurisdiction conferred
17 by this chapter and while sitting in the exercise of such jurisdiction
18 shall be known and referred to as the "family court." A family law
19 proceeding under this chapter is any proceeding under this title or any
20 proceeding in which the family court is requested to adjudicate or
21 enforce the rights of the parties or their children regarding the
22 determination or modification of parenting plans, child custody,
23 visitation, or support, or the distribution of property or obligations.

24 (2) Superior court judges of a county may by majority vote, grant
25 to the family court the power, authority, and jurisdiction, concurrent
26 with the juvenile court, to hear and decide cases under Title 13 RCW.

27 **Sec. 703.** RCW 13.04.021 and 1988 c 232 s 3 are each amended to
28 read as follows:

29 (1) The juvenile court shall be a division of the superior court.
30 In judicial districts having more than one judge of the superior court,
31 the judges of such court shall annually assign one or more of their
32 number to the juvenile court division. In any judicial district having
33 a court commissioner, the court commissioner shall have the power,
34 authority, and jurisdiction, concurrent with a juvenile court judge, to
35 hear all cases under this chapter and to enter judgment and make orders
36 with the same power, force, and effect as any judge of the juvenile
37 court, subject to motion or demand by any party within ten days from

1 the entry of the order or judgment by the court commissioner as
2 provided in RCW 2.24.050. In any judicial district having a family law
3 commissioner appointed pursuant to chapter 26.12 RCW, the family law
4 commissioner shall have the power, authority, and jurisdiction,
5 concurrent with a juvenile court judge, to hear cases under chapter
6 13.34 RCW or any other case under Title 13 RCW as provided in RCW
7 26.12.010, and to enter judgment and make orders with the same power,
8 force, and effect as any judge of the juvenile court, subject to motion
9 or demand by any party within ten days from the entry of the order or
10 judgment by the court commissioner as provided in RCW 2.24.050.

11 (2) Cases in the juvenile court shall be tried without a jury.

12 **PART II - JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1995**

13 NEW SECTION. **Sec. 801.** The legislature finds that the juvenile
14 justice act of 1977, chapter 13.40 RCW, requires substantial revision.
15 The legislature reaffirms the goals of the act, including the dual
16 goals of punishment and rehabilitation of juvenile offenders. The
17 legislature finds, however, that the substantive provisions of the act
18 are too structured to achieve fully the act's goals.

19 The framework created by the act has diminishing relevance to
20 today's violent and chronic offenders. Juveniles are committing
21 increasingly violent crimes, and they are committing these violent
22 crimes at an increasingly younger age. Simultaneously, juveniles
23 habitually commit minor offenses. Dispositions prescribed by the act
24 are not long enough to permit substantial rehabilitation of violent
25 offenders, and minor offenders receive no meaningful intervention. The
26 fixed system established by the act restricts the judiciary's efforts
27 to tailor punishment and rehabilitation to the juvenile's individual
28 needs. Additionally, substantial delays occur before the juvenile
29 offender is held accountable for criminal acts.

30 Juvenile offenders must learn personal accountability and must
31 accept responsibility for their criminal behavior. To this end, the
32 juvenile system must provide a swift response, meaningful punishment,
33 and effective rehabilitation. Therefore, sections 801 through 812 of
34 this act seek to accomplish the following goals: (1) Increasing the
35 speed of the juvenile justice system's response to juvenile offenders'
36 criminal behavior; (2) increasing the certainty of punishment and
37 intervention; (3) increasing judicial discretion and permitting judges

1 to tailor dispositions to the juvenile's offense; (4) expanding the
2 range of disposition alternatives to permit meaningful punishment and
3 effective rehabilitation; (5) increasing the likelihood that juveniles
4 will comply with the terms of their dispositions by creating compliance
5 incentives and, if necessary, placing the juveniles in supportive out-
6 of-home placements; and (6) reducing the complexity of the system.

7 **Sec. 802.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to
8 read as follows:

9 For the purposes of this chapter:

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

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

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

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

22 ~~(2))~~ "Community service" means compulsory service, without
23 compensation, performed for the benefit of the community by the
24 offender as punishment for committing an offense. Community service
25 may be performed through public or private organizations or through
26 work crews;

27 ~~((3))~~ (2) "Community supervision" means an order of disposition
28 by the court of an adjudicated youth not committed to the department.
29 A community supervision order for a single offense may be for a period
30 of up to two years for a sex offense as defined by RCW 9.94A.030 and up
31 to one year for other offenses. Community supervision is an
32 individualized program comprised of one or more of the following:

33 (a) Community-based sanctions;

34 (b) Community-based rehabilitation;

35 (c) Monitoring and reporting requirements;

36 ~~((4))~~ (3) Community-based sanctions may include one or more of
37 the following:

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

1 (b) Community service not to exceed one hundred fifty hours of
2 service;

3 ((+5)) (4) "Community-based rehabilitation" means one or more of
4 the following: Attendance of information classes; counseling,
5 outpatient substance abuse treatment programs, outpatient mental health
6 programs, anger management classes, or other services; or attendance at
7 school or other educational programs appropriate for the juvenile as
8 determined by the school district. Placement in community-based
9 rehabilitation programs is subject to available funds;

10 ((+6)) (5) "Monitoring and reporting requirements" means one or
11 more of the following: Curfews; requirements to remain at home,
12 school, work, or court-ordered treatment programs during specified
13 hours; restrictions from leaving or entering specified geographical
14 areas; requirements to report to the ((probation)) community
15 supervision officer as directed and to remain under the ((probation))
16 community supervision officer's supervision; and other conditions or
17 limitations as the court may require which may not include confinement;

18 ((+7)) (6) "Confinement" means physical custody by the department
19 of social and health services in a facility operated by or pursuant to
20 a contract with the state, or physical custody in a detention facility
21 operated by or pursuant to a contract with any county. The county may
22 operate or contract with vendors to operate county detention
23 facilities. Confinement includes state and county group homes, foster
24 care homes, inpatient substance abuse programs, juvenile boot camps,
25 and electronic monitoring. The department may operate or contract to
26 operate detention facilities for juveniles committed to the department.
27 Pretrial confinement or confinement of less than thirty-one days
28 imposed as part of a disposition or modification order may be served
29 consecutively or intermittently, in the discretion of the court and may
30 be served in a detention group home, detention foster home, or with
31 electronic monitoring. Detention group homes and detention foster
32 homes used for confinement shall not also be used for the placement of
33 dependent children. Confinement in detention group homes and detention
34 foster homes and electronic monitoring are subject to available funds;

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

37 ((+9)) (8) "Criminal history" includes all criminal complaints
38 against the respondent for which, prior to the commission of a current
39 offense((:—(a))), the allegations were found correct by a court((.—If

1 a respondent is convicted of two or more charges arising out of the
2 same course of conduct, only the highest charge from among these shall
3 count as an offense for the purposes of this chapter)); or ((b)) the
4 criminal complaint was diverted by a prosecutor pursuant to the
5 provisions of this chapter on agreement of the respondent and after an
6 advisement to the respondent that the criminal complaint would be
7 considered as part of the respondent's criminal history. Deferred
8 adjudications shall not be considered part of the respondent's criminal
9 history;

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

12 ((11)) (10) "Detention facility" means a county facility for the
13 physical confinement of a juvenile alleged to have committed an offense
14 or an adjudicated offender subject to a disposition or modification
15 order;

16 ((12)) (11) "Diversion unit" means any ((probation)) community
17 supervision counselor who enters into a diversion agreement with an
18 alleged youthful offender, or any other person, community
19 accountability board, or other entity except a law enforcement official
20 or entity, with whom the juvenile court administrator has contracted to
21 arrange and supervise such agreements pursuant to RCW 13.40.080, or any
22 person, community accountability board, or other entity specially
23 funded by the legislature to arrange and supervise diversion agreements
24 in accordance with the requirements of this chapter. For purposes of
25 this subsection, "community accountability board" means a board
26 comprised of members of the local community in which the juvenile
27 offender resides. The superior court shall appoint the members. The
28 boards shall consist of at least three and not more than seven members.
29 If possible, the board should include a variety of representatives from
30 the community, such as a law enforcement officer, teacher or school
31 administrator, high school student, parent, and business owner, and
32 should represent the cultural diversity of the local community;

33 ((13)) (12) "Institution" means a juvenile facility established
34 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

35 ((14)) (13) "Juvenile," "youth," and "child" mean any individual
36 who is under the chronological age of eighteen years and who has not
37 been previously transferred to adult court pursuant to RCW 13.40.110 or
38 who is otherwise under adult court jurisdiction;

1 (~~(15)~~) (14) "Juvenile offender" means any juvenile who has been
2 found by the juvenile court to have committed an offense, including a
3 person eighteen years of age or older over whom jurisdiction has been
4 extended under RCW 13.40.300;

5 (~~(16)~~) (15) "Manifest injustice" means a disposition that would
6 either impose an excessive penalty on the juvenile, would fail to
7 promote the juvenile's best rehabilitative interest, or would impose a
8 serious, and clear danger to society in light of the purposes of this
9 chapter;

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

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

16 (a) Four misdemeanors;

17 (b) Two misdemeanors and one gross misdemeanor;

18 (c) One misdemeanor and two gross misdemeanors;

19 (d) Three gross misdemeanors;

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

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

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

30 (~~(19)~~) (16) "Offense" means an act designated a violation or a
31 crime if committed by an adult under the law of this state, under any
32 ordinance of any city or county of this state, under any federal law,
33 or under the law of another state if the act occurred in that state;

34 (~~(20)~~) (17) "Placement out of the home" means placement for
35 twenty-four hour residential care in foster or group care, or with a
36 court-approved custodian. Placement out of the home in county or
37 state-funded placements is subject to available funds and beds;

38 (18) "Respondent" means a juvenile who is alleged or proven to have
39 committed an offense;

1 (~~(21)~~) (19) "Restitution" means financial reimbursement by the
2 offender to the victim, and shall be limited to easily ascertainable
3 damages for injury to or loss of property, actual expenses incurred for
4 medical treatment for physical injury to persons, lost wages resulting
5 from physical injury, and costs of the victim's counseling reasonably
6 related to the offense if the offense is a sex offense. Restitution
7 shall not include reimbursement for damages for mental anguish, pain
8 and suffering, or other intangible losses. Nothing in this chapter
9 shall limit or replace civil remedies or defenses available to the
10 victim or offender;

11 (~~(22)~~) (20) "Secretary" means the secretary of the department of
12 social and health services;

13 (~~(23)~~) (21) "Services" mean services which provide alternatives
14 to incarceration for those juveniles who have pleaded or been
15 adjudicated guilty of an offense or have signed a diversion agreement
16 pursuant to this chapter;

17 (~~(24)~~) (22) "Sex offense" means an offense defined as a sex
18 offense in RCW 9.94A.030;

19 (~~(25)~~) (23) "Sexual motivation" means that one of the purposes
20 for which the respondent committed the offense was for the purpose of
21 his or her sexual gratification;

22 (~~(26)~~) (24) "Foster care" means temporary physical care in a
23 foster family home or group care facility as defined in RCW 74.15.020
24 and licensed by the department, or other legally authorized care;

25 (~~(27)~~) (25) "Violation" means an act or omission, which if
26 committed by an adult, must be proven beyond a reasonable doubt, and is
27 punishable by sanctions which do not include incarceration;

28 (26) "Deadly weapon" means a deadly weapon as defined in RCW
29 9.94A.125;

30 (27) "Assistant secretary" means the assistant secretary for
31 juvenile rehabilitation within the department;

32 (28) "Violent offense" means violent offense as defined in RCW
33 9.94A.030;

34 (29) "Placement out of the home" means placement for twenty-four
35 hour residential care in foster or group care or with a court-approved
36 custodian.

37 **Sec. 803.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to
38 read as follows:

1 (1) There is established a juvenile disposition standards
2 commission to propose disposition standards to the legislature in
3 accordance with RCW 13.40.030 and perform the other responsibilities
4 set forth in this chapter.

5 (2) The commission shall be composed of the secretary or the
6 secretary's designee and the following ~~((nine))~~ members appointed by
7 the governor, subject to confirmation by the senate: (a) ~~((A))~~ Two
8 superior court judges; (b) ~~((a))~~ two prosecuting ~~((attorney))~~ or deputy
9 prosecuting attorneys; (c) a law enforcement officer; (d) an
10 administrator of juvenile court services; (e) ~~((a))~~ two public
11 defenders actively practicing in juvenile court; (f) a county
12 legislative official or county executive; ~~((and))~~ (g) three other
13 persons who have demonstrated significant interest in the adjudication
14 and disposition of juvenile offenders; and (h) one member from each of
15 the two largest caucuses of both the senate and the house of
16 representatives, who shall be nonvoting members. In making the
17 appointments, the governor shall seek the recommendations of the
18 association of superior court judges in respect to the members who ~~((is~~
19 ~~a))~~ are superior court judges; of Washington prosecutors in respect to
20 the prosecuting ~~((attorney))~~ or deputy prosecuting attorney members; of
21 the Washington association of sheriffs and police chiefs in respect to
22 the member who is a law enforcement officer; of juvenile court
23 administrators in respect to the member who is a juvenile court
24 administrator; and of the state bar association in respect to the
25 public defender member; and of the Washington association of counties
26 in respect to the member who is either a county legislative official or
27 county executive.

28 (3) The ~~((secretary or the secretary's designee))~~ governor shall
29 ~~((serve as chairman))~~ designate the chair of the commission.

30 (4) The secretary shall serve on the commission during the
31 secretary's tenure as secretary of the department. The term of the
32 remaining members of the commission shall be three years. The initial
33 terms shall be determined by lot conducted at the commission's first
34 meeting as follows: (a) Four members shall serve ~~((a two-year))~~ one-
35 year terms; ~~((and))~~ (b) four members shall serve ~~((a three-year))~~ two-
36 year term; and (c) six members shall serve three-year terms. In the
37 event of a vacancy, the appointing authority shall designate a new
38 member to complete the remainder of the unexpired term.

1 (5) Commission members shall be reimbursed for travel expenses as
2 provided in RCW 43.03.050 and 43.03.060. Members shall be compensated
3 in accordance with RCW 43.03.240.

4 (6) The commission shall meet at least once every three months.

5 **Sec. 804.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to
6 read as follows:

7 (1) It is the responsibility of the commission to:

8 (a)(i) Evaluate the effectiveness of existing disposition standards
9 and related statutes in implementing policies set forth in RCW
10 13.40.010 generally(~~(7)~~);

11 (ii) (~~specifically~~) Review (~~the guidelines relating to the~~
12 ~~confinement of minor and first offenders as well as~~) the use of
13 diversion, (~~and~~) deferred adjudications, and suspended confinement or
14 commitment;

15 (iii) Review the application of current and proposed juvenile
16 sentencing standards and guidelines for potential adverse impacts on
17 the sentencing outcomes of racial and ethnic minority youth; and

18 (iv) Evaluate the effectiveness of existing disposition standards
19 in light of juvenile offenders' rehabilitative needs;

20 (b) Solicit the comments and suggestions of the juvenile justice
21 community, including juvenile justice advisory committees of local law
22 and justice councils, concerning disposition standards, effectiveness,
23 and proportionality; (~~and~~)

24 (c) Make recommendations to the legislature regarding revisions or
25 modifications of the disposition standards in accordance with RCW
26 13.40.030;

27 (d) Implement a comprehensive tracking program to analyze
28 recidivism among juvenile offenders, particularly among offenders who
29 receive alternatives such as diversion, deferred adjudication, and
30 suspended confinement or commitment. The commission shall include
31 information and statistics about juvenile recidivism in the
32 commission's annual report;

33 (e) If the commission identifies racial or other
34 disproportionalities at any stage of administration of juvenile
35 justice, identify the disproportionalities in the annual report and
36 make recommendations for corrective measures; and

37 (f) Review the instances in which the court enters a finding
38 pursuant to RCW 13.40.160(10) that the court has declined to exercise

1 a disposition option due to lack of funds, services, or bed space. The
2 commission shall document the number and circumstances of these
3 findings in its annual report.

4 The evaluations shall be submitted to the legislature on December
5 1 of each ~~((even-numbered))~~ year ~~((thereafter))~~.

6 (2)(a) If sufficient funds are not provided for (b) of this
7 subsection, it is the responsibility of the department to: ~~((a))~~ (i)
8 Provide the commission with available data concerning the
9 implementation of the disposition standards and related statutes and
10 their effect on the performance of the department's responsibilities
11 relating to juvenile offenders; ~~((b))~~ (ii) at the request of the
12 commission, provide technical and administrative assistance to the
13 commission in the performance of its responsibilities; and ~~((c))~~
14 (iii) provide the commission and legislature with recommendations for
15 modification of the disposition standards.

16 (b) If sufficient funds are provided for this subsection (2)(b),
17 the office of financial management shall determine the appropriate
18 staffing level for the commission to provide a research staff of
19 sufficient size and with sufficient resources to accomplish its duties.
20 The salary for a full-time executive officer, if any, shall be fixed by
21 the governor under RCW 43.03.040.

22 (3) The commission may request from the office of financial
23 management, the administrator for the courts, local law and justice
24 councils, and the department such data, information, and data
25 processing assistance as it may need to accomplish its duties, and the
26 services shall be provided without cost to the commission. The
27 department and other organizations or individuals shall provide the
28 commission and the legislature with recommendations for modification of
29 the disposition standards. The commission shall have rule-making
30 authority to develop a system for fulfilling its identified data needs.

31 (4) The commission shall conduct a study to determine the capacity
32 of rehabilitative facilities and programs that are or will be
33 available. While the commission need not consider the capacity in
34 arriving at its recommendations, the commission shall project whether
35 the implementation of its recommendations would result in exceeding the
36 capacity. If the commission finds that this result would probably
37 occur, then the commission shall prepare an additional list of standard
38 sentences that shall be consistent with the capacity.

1 (5) The commission shall study the existing juvenile justice code
2 and make recommendations to the legislature for modification.

3 (6) The commission shall adopt its own bylaws.

4 **Sec. 805.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to
5 read as follows:

6 ~~((1)(a) The juvenile disposition standards commission shall~~
7 ~~recommend to the legislature no later than November 1st of each year~~
8 ~~disposition standards for all offenses. The standards shall establish,~~
9 ~~in accordance with the purposes of this chapter, ranges which may~~
10 ~~include terms of confinement and/or community supervision established~~
11 ~~on the basis of a youth's age, the instant offense, and the history and~~
12 ~~seriousness of previous offenses, but in no case may the period of~~
13 ~~confinement and supervision exceed that to which an adult may be~~
14 ~~subjected for the same offense(s). Standards recommended for offenders~~
15 ~~listed in RCW 13.40.020(1) shall include a range of confinement which~~
16 ~~may not be less than thirty days. No standard range may include a~~
17 ~~period of confinement which includes both more than thirty, and thirty~~
18 ~~or less, days. Disposition standards recommended by the commission~~
19 ~~shall provide that in all cases where a youth is sentenced to a term of~~
20 ~~confinement in excess of thirty days the department may impose an~~
21 ~~additional period of parole not to exceed eighteen months. Standards~~
22 ~~of confinement which may be proposed may relate only to the length of~~
23 ~~the proposed terms and not to the nature of the security to be imposed.~~
24 ~~In developing recommended disposition standards, the commission shall~~
25 ~~consider the capacity of the state juvenile facilities and the~~
26 ~~projected impact of the proposed standards on that capacity.~~

27 ~~(b))~~) The secretary shall submit guidelines pertaining to the
28 nature of the security to be imposed on youth placed in his or her
29 custody based on the age, offense(s), and criminal history of the
30 juvenile offender. Such guidelines shall be submitted to the
31 legislature for its review no later than November 1st of each year. At
32 the same time the secretary shall submit a report on security at
33 juvenile facilities during the preceding year. The report shall
34 include the number of escapes from each juvenile facility, the most
35 serious offense for which each escapee had been confined, the number
36 and nature of offenses found to have been committed by juveniles while
37 on escape status, the number of authorized leaves granted, the number
38 of failures to comply with leave requirements, the number and nature of

1 offenses committed while on leave, and the number and nature of
2 offenses committed by juveniles while in the community on minimum
3 security status; to the extent this information is available to the
4 secretary. The department shall include security status definitions in
5 the security guidelines it submits to the legislature pursuant to this
6 section.

7 ~~((2) In developing recommendations for the permissible ranges of
8 confinement under this section the commission shall be subject to the
9 following limitations:~~

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

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

16 ~~(c) Where the maximum term in the range is more than one year, the
17 minimum term in the range may be no less than eighty percent of the
18 maximum term in the range.))~~

19 **Sec. 806.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
20 read as follows:

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

31 (2) For purposes of disposition:

32 (a) ~~((Violations which are current offenses count as misdemeanors))~~
33 Prior to disposition, the county shall conduct a predisposition
34 diagnostic evaluation of the juvenile and shall prepare a report of the
35 evaluation. The county shall provide this report to the court. The
36 evaluation shall include an assessment of the juvenile's rehabilitative
37 needs including but not limited to the juvenile's needs for treatment,

1 therapy, and education. The evaluation shall also include a
2 preliminary assessment of the security risks posed by the juvenile;

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

5 (c) In no event may a disposition for a violation include
6 confinement.

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

10 (a) Consider the facts supporting the allegations of criminal
11 conduct by the respondent;

12 (b) Consider information and arguments offered by parties and their
13 counsel;

14 (c) Consider (~~any predisposition reports~~) the predisposition
15 evaluation report;

16 (d) Consult with the respondent's parent, guardian, or custodian on
17 the appropriateness of dispositional options under consideration and
18 afford the respondent and the respondent's parent, guardian, or
19 custodian an opportunity to speak in the respondent's behalf;

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

22 (f) Determine the amount of restitution owing to the victim, if
23 any;

24 (g) (~~Determine whether the respondent is a serious offender, a~~
25 ~~middle offender, or a minor or first offender~~) Consider the types of
26 treatment, therapy, education, and other rehabilitative services that
27 would be most effective at rehabilitating the offender;

28 (h) Consider whether or not any of the following mitigating factors
29 exist:

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

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

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

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

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

3 (i) Consider whether or not any of the following aggravating
4 factors exist:

5 (i) In the commission of the offense, or in flight therefrom, the
6 respondent inflicted or attempted to inflict serious bodily injury to
7 another;

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

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

11 (iv) The respondent has a recent criminal history or has failed to
12 comply with conditions of a recent dispositional order or diversion
13 agreement;

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

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

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

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

23 (a) The sex of the respondent;

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

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

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

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

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

34 **Sec. 807.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to read
35 as follows:

36 (1) ~~((When the respondent is found to be a serious offender, the
37 court shall commit the offender to the department for the standard
38 range of disposition for the offense, as indicated in option A of~~

1 ~~schedule D-3, RCW 13.40.0357 except as provided in subsection (5) of~~
2 ~~this section.~~

3 ~~If the court concludes, and enters reasons for its conclusion, that~~
4 ~~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 B of schedule D-3, RCW 13.40.0357. The~~
7 ~~court's finding of manifest injustice shall be supported by clear and~~
8 ~~convincing 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), as now or hereafter amended, shall be used to~~
15 ~~determine the range. A disposition outside the standard range is~~
16 ~~appealable under RCW 13.40.230, as now or hereafter amended, by the~~
17 ~~state or the respondent. A disposition within the standard range is~~
18 ~~not appealable under RCW 13.40.230 as now or hereafter amended.~~

19 ~~(2) Where the respondent is found to be a minor or first offender,~~
20 ~~the court shall order that the respondent serve a term of community~~
21 ~~supervision as indicated in option A or option B of schedule D-1, RCW~~
22 ~~13.40.0357 except as provided in subsection (5) of this section. If~~
23 ~~the court determines that a disposition of community supervision would~~
24 ~~effectuate a manifest injustice the court may impose another~~
25 ~~disposition under option C of schedule D-1, RCW 13.40.0357. Except as~~
26 ~~provided in subsection (5) of this section, a disposition other than a~~
27 ~~community supervision may be imposed only after the court enters~~
28 ~~reasons upon which it bases its conclusions that imposition of~~
29 ~~community supervision would effectuate a manifest injustice. When a~~
30 ~~judge finds a manifest injustice and imposes a sentence of confinement~~
31 ~~exceeding thirty days, the court shall sentence the juvenile to a~~
32 ~~maximum term, and the provisions of RCW 13.40.030(2), as now or~~
33 ~~hereafter amended, shall be used to determine the range. The court's~~
34 ~~finding of manifest injustice shall be supported by clear and~~
35 ~~convincing evidence.~~

36 ~~Except for disposition of community supervision or a disposition~~
37 ~~imposed pursuant to subsection (5) of this section, a disposition may~~
38 ~~be appealed as provided in RCW 13.40.230, as now or hereafter amended,~~
39 ~~by the state or the respondent. A disposition of community supervision~~

1 or a disposition imposed pursuant to subsection (5) of this section may
2 not be appealed under RCW 13.40.230 as now or hereafter amended.

3 (3) ~~Where a respondent is found to have committed an offense for
4 which the respondent declined to enter into a diversion agreement, the
5 court shall impose a term of community supervision limited to the
6 conditions allowed in a diversion agreement as provided in RCW
7 13.40.080(2) as now or hereafter amended.~~

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

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

15 (b) ~~The court shall impose a determinate disposition of community
16 supervision and/or up to thirty days confinement, as indicated in
17 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement
18 has been imposed, the court shall state either aggravating or
19 mitigating factors as set forth in RCW 13.40.150 as now or hereafter
20 amended.~~

21 (c) ~~Only if the court concludes, and enters reasons for its
22 conclusions, that disposition as provided in subsection (4)(a) or (b)
23 of this section would effectuate a manifest injustice, the court shall
24 sentence the juvenile to a maximum term, and the provisions of RCW
25 13.40.030(2), as now or hereafter amended, shall be used to determine
26 the range. The court's finding of manifest injustice shall be
27 supported by clear and convincing evidence.~~

28 (d) ~~A disposition pursuant to subsection (4)(c) of this section is
29 appealable under RCW 13.40.230, as now or hereafter amended, by the
30 state or the respondent. A disposition pursuant to subsection (4) (a)
31 or (b) of this section is not appealable under RCW 13.40.230 as now or
32 hereafter amended.~~

33 (5)) The court may impose a disposition as provided in this
34 section for any juvenile adjudicated for an offense. Offenders
35 eligible for the juvenile offender basic training camp program may
36 receive a disposition under section 402 of this act.

37 (2) The court shall consider various factors, including but not
38 limited to the following, when determining a disposition:

39 (a) The juvenile's age and maturity;

1 (b) The juvenile's criminal history and the recency of that
2 criminal history;

3 (c) Whether the juvenile has had prior deferrals of adjudications;

4 (d) Whether the juvenile complied with the terms of the disposition
5 imposed for prior offenses;

6 (e) The seriousness of the offense;

7 (f) Whether the juvenile's adjudication resulted from accomplice
8 liability; and

9 (g) Whether any aggravating or mitigating factors apply.

10 (3)(a) For a juvenile adjudicated for a misdemeanor or a gross
11 misdemeanor, the court shall impose a disposition comprised of any of
12 the following:

13 0 - 12 Months of community supervision;

14 0 - 150 Hours of community service;

15 0 - \$100 Fine;

16 0 - 30 Days in confinement if the juvenile has prior criminal
17 history or a prior deferred adjudication.

18 (b) The court shall not commit a juvenile adjudicated of a
19 misdemeanor or gross misdemeanor to the department unless the court
20 enters a finding that a disposition under (a) of this subsection would
21 effectuate a manifest injustice.

22 (4)(a) Except as provided in (c) of this subsection, for a juvenile
23 adjudicated of a class C or B felony that is not: A violent offense,
24 a crime against persons as defined in RCW 9.94A.440(2), or a crime of
25 harassment as defined in RCW 9A.46.060, the court shall impose a
26 disposition comprised of any of the following:

27 0 - 12 Months of community supervision;

28 0 - 150 Hours of community service;

29 0 - \$100 Fine;

30 5 - 60 days of confinement or commitment to the department.

31 (b) Except as provided in (c) of this subsection, the court shall
32 not commit a juvenile adjudicated under this subsection (4) to the
33 department for more than sixty days unless (i) the court enters a
34 finding that a disposition under (a) of this subsection would
35 effectuate a manifest injustice; or (ii) the juvenile has a significant
36 criminal history that would support a finding of an aggravating factor
37 under RCW 13.40.150(3) if the criminal history was more recent.

1 (c)(i) If a respondent is found to have been in possession of a
2 firearm in violation of RCW 9.41.040(1)(e), the court shall commit the
3 offender to the department for sixty days' confinement.

4 (ii) if a respondent is found to have delivered a firearm in
5 violation of RCW 9.41.080, the court shall commit the offender to the
6 department for one hundred twenty days' confinement.

7 (iii) If a respondent is found to have committed an offense of
8 theft of a firearm as defined in section 505 of this act, the court
9 shall commit the offender to the department for one hundred twenty
10 days' confinement.

11 (d) The department shall not release the offender given a
12 disposition under (c) (i), (ii), or (iii) of this subsection prior to
13 expiration of the court-ordered term of confinement.

14 (e) Any term of confinement ordered pursuant to (c) (i), (ii), or
15 (iii) of this subsection shall run consecutively to any term of
16 confinement imposed in the same disposition for other offenses.

17 (f) The court may suspend all or a portion of any term of
18 confinement or commitment imposed under this subsection (4). In
19 addition to the suspended confinement or commitment, the court shall
20 impose community supervision, community service, or a fine as provided
21 in (a) of this subsection.

22 (5)(a) For a juvenile adjudicated of a class C or B felony that is
23 a crime against persons or a crime of harassment but is not a violent
24 offense, the court shall impose a disposition comprised of the
25 following:

26 0 - 12 Months community supervision;

27 0 - 150 Hours community service;

28 0 - \$100 Fine;

29 5 Days to 129 weeks in confinement or commitment to the department.

30 (b) The court shall not commit a juvenile adjudicated under this
31 subsection (5) to the department in excess of one hundred twenty-nine
32 weeks unless the court enters a finding that a disposition under this
33 subsection (5) would effect a manifest injustice. The basis for the
34 manifest injustice must be a basis other than the offender's criminal
35 history as described in RCW 13.40.150(3)(i)(iv).

36 (c) The court may suspend all or a portion of any term of
37 confinement or commitment imposed under this subsection (5). In
38 addition to the suspended confinement or commitment, the court shall

1 impose community supervision, community service, or a fine as provided
2 in (a)(i) of this subsection.

3 (6)(a) If a juvenile is adjudicated of a class A felony, an
4 attempt to commit a class A felony, a sex or violent offense, or an
5 offense in which a finding was entered that the offender was armed with
6 a deadly weapon when the offense was committed, the court shall impose
7 a disposition of the following:

8 52 - 224 Weeks committed to the department.

9 (b) The court shall not impose a disposition under this subsection
10 (6) outside the standard range unless the court finds that imposition
11 of the standard range would effectuate a manifest injustice.

12 (c) If the juvenile is adjudicated of a sex offense, other than a
13 sex offense that is also a serious violent offense as defined by RCW
14 9.94A.030, the court need not impose a disposition under this
15 subsection (6). The court may instead order a treatment disposition
16 option under subsection (11) of this section.

17 (d) When a court adjudicates a juvenile of a sex offense, the
18 court shall impose a disposition as provided in this subsection (6), as
19 modified by this subsection (6)(d), unless the court orders a
20 disposition under subsection (11) of this section. In addition to the
21 term of commitment imposed under this subsection (6), the court shall
22 impose a term of postrelease supervision not to exceed five years. The
23 department shall provide the postrelease supervision. If the juvenile
24 receives treatment while committed, the court, as a condition of
25 postrelease supervision, may order the juvenile to continue with a
26 particular treatment program for all or a portion of the term of
27 postrelease supervision. The department may recommend to the
28 sentencing court whether the option of continuing treatment is
29 appropriate. Upon the recommendation of the department, the court may
30 either reduce the term of postrelease supervision or impose additional
31 or more restrictive terms of postrelease supervision. The postrelease
32 supervision required by this section shall be in addition to any term
33 of parole imposed by the department.

34 (7) In all cases, the court shall impose a determinate
35 disposition.

36 (8) If the court concludes, and enters reasons for its conclusion,
37 that disposition within the standard range would effectuate a manifest
38 injustice, the court shall impose a determinate disposition outside the
39 standard range. If the court imposes a disposition below the standard

1 range due to a manifest injustice, the disposition shall be comprised
2 of community supervision or confinement, or both. The court's finding
3 of manifest injustice shall be supported by clear and convincing
4 evidence. A disposition outside the standard range shall be appealable
5 under RCW 13.40.230, by the state or respondent. A disposition within
6 the standard range is not appealable.

7 (9) In all cases, the court shall enter an order for restitution,
8 if any is due to the victim, according to RCW 13.40.190.

9 (10) In all disposition orders that include commitment to the
10 department, the court shall make a finding of reasonable rehabilitative
11 goals to be achieved by the juvenile during the commitment term. These
12 goals may include, by way of example and not limitation, completion of
13 substance abuse treatment, completion of anger management courses, and
14 achievement of academic, educational, or vocational goals, such as
15 grade-level reading or GED completion.

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

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

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

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

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

37 (iii) Monitoring plans, including any requirements regarding
38 living conditions, lifestyle requirements, and monitoring by family
39 members, legal guardians, or others;

- 1 (iv) Anticipated length of treatment; and
- 2 (v) Recommended crime-related prohibitions.

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

9 After receipt of reports of the examination, the court shall then
10 consider whether the offender and the community will benefit from use
11 of this special sex offender disposition alternative and consider the
12 victim's opinion whether the offender should receive a treatment
13 disposition under this section. If the court determines that this
14 special sex offender disposition alternative is appropriate, then the
15 court shall impose a determinate disposition within the standard range
16 for the offense, and the court may suspend the execution of the
17 disposition and place the offender on community supervision for (~~up~~
18 ~~to~~) not less than two years. As a condition of the suspended
19 disposition, the court may impose the conditions of community
20 supervision and other conditions, including up to thirty days of
21 confinement and requirements that the offender do any one or more of
22 the following:

23 (b)(i) Devote time to a specific education, employment, or
24 occupation;

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

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

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

4 (v) Report as directed to the court and a (~~probation~~) community
5 supervision counselor;

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

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

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

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

19 Except as provided in this subsection (~~(+5)~~) (11), after July 1,
20 1991, examinations and treatment ordered pursuant to this subsection
21 shall only be conducted by sex offender treatment providers certified
22 by the department of health pursuant to chapter 18.155 RCW. A sex
23 offender therapist who examines or treats a juvenile sex offender
24 pursuant to this subsection does not have to be certified by the
25 department of health pursuant to chapter 18.155 RCW if the court finds
26 that: (A) The offender has already moved to another state or plans to
27 move to another state for reasons other than circumventing the
28 certification requirements; (B) no certified providers are available
29 for treatment within a reasonable geographical distance of the
30 offender's home; and (C) the evaluation and treatment plan comply with
31 this subsection (~~(+5)~~) (11) and the rules adopted by the department of
32 health.

33 If the offender violates any condition of the disposition or the
34 court finds that the respondent is failing to make satisfactory
35 progress in treatment, the court may revoke the suspension and order
36 execution of the (~~sentence~~) disposition or the court may impose a
37 penalty of up to thirty days' confinement for violating conditions of
38 the disposition. The court may order both execution of the disposition
39 and up to thirty days' confinement for the violation of the conditions

1 of the disposition, in which case the term of confinement imposed for
2 violating conditions of the disposition shall run consecutively to the
3 term of confinement imposed under the disposition. The court shall
4 give credit for any confinement time previously served if that
5 confinement was for the offense for which the suspension is being
6 revoked.

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

12 ~~((+6+))~~ (12) Whenever a juvenile offender is entitled to credit
13 for time spent in detention prior to a dispositional order, the
14 dispositional order shall specifically state the number of days of
15 credit for time served.

16 ~~((+7) Except as provided for in subsection (5) of this section,~~
17 ~~the court shall not suspend or defer the imposition or the execution of~~
18 ~~the disposition.~~

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

22 (13) Whenever a dispositional order requires a juvenile to
23 participate in a treatment program, the court may require the
24 juvenile's parents, guardians, or custodians to participate in the
25 treatment program with the juvenile.

26 (14) If a court does not exercise a disposition option available
27 under this chapter due to a lack of available funds, services, or bed
28 space, the court shall enter a finding in the disposition that an
29 alternative disposition was not ordered due to the lack of available
30 funds, services, or bed space.

31 **Sec. 808.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
32 read as follows:

33 Unless otherwise provided in this chapter, where a disposition is
34 imposed on a youth for two or more offenses, the terms shall run
35 consecutively(, subject to the following limitations:

36 (1) ~~Where the offenses were committed through a single act or~~
37 ~~omission, omission, or through an act or omission which in itself~~
38 ~~constituted one of the offenses and also was an element of the other,~~

1 ~~the aggregate of all the terms shall not exceed one hundred fifty~~
2 ~~percent of the term imposed for the most serious offense;~~

3 ~~(2) The aggregate of all consecutive terms shall not exceed three~~
4 ~~hundred percent of the term imposed for the most serious offense; and~~

5 ~~(3) The aggregate of all consecutive terms of community~~
6 ~~supervision shall not exceed two years in length, or require payment of~~
7 ~~more than two hundred dollars in fines or the performance of more than~~
8 ~~two hundred hours of community service)) or concurrently in the court's~~
9 ~~discretion, except as provided in RCW 13.40.160(3)(e).~~

10 **Sec. 809.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to
11 read as follows:

12 (1) A juvenile sentenced to a term of confinement to be served
13 under the supervision of the department shall not be released from the
14 physical custody of the department prior to the release date
15 established under RCW 13.40.210 except as otherwise provided in this
16 section.

17 (2) A juvenile serving a term of confinement under the supervision
18 of the department may be released on authorized leave from the physical
19 custody of the department only if consistent with public safety and if:

20 (a) Sixty percent of the ((minimum)) term of confinement has been
21 served; and

22 (b) The purpose of the leave is to enable the juvenile:

23 (i) To visit the juvenile's family for the purpose of
24 strengthening or preserving family relationships;

25 (ii) To make plans for parole or release which require the
26 juvenile's personal appearance in the community and which will
27 facilitate the juvenile's reintegration into the community; or

28 (iii) To make plans for a residential placement out of the
29 juvenile's home which requires the juvenile's personal appearance in
30 the community.

31 (3) No authorized leave may exceed seven consecutive days. The
32 total of all pre-minimum term authorized leaves granted to a juvenile
33 prior to final discharge from confinement shall not exceed thirty days.

34 (4) Prior to authorizing a leave, the secretary shall require a
35 written leave plan, which shall detail the purpose of the leave and how
36 it is to be achieved, the address at which the juvenile shall reside,
37 the identity of the person responsible for supervising the juvenile
38 during the leave, and a statement by such person acknowledging

1 familiarity with the leave plan and agreeing to supervise the juvenile
2 and to notify the secretary immediately if the juvenile violates any
3 terms or conditions of the leave. The leave plan shall include such
4 terms and conditions as the secretary deems appropriate and shall be
5 signed by the juvenile.

6 (5) Upon authorizing a leave, the secretary shall issue to the
7 juvenile an authorized leave order which shall contain the name of the
8 juvenile, the fact that the juvenile is on leave from a designated
9 facility, the time period of the leave, and the identity of an
10 appropriate official of the department to contact when necessary. The
11 authorized leave order shall be carried by the juvenile at all times
12 while on leave.

13 (6) Prior to the commencement of any authorized leave, the
14 secretary shall give notice of the leave to the appropriate law
15 enforcement agency in the jurisdiction in which the juvenile will
16 reside during the leave period. The notice shall include the identity
17 of the juvenile, the time period of the leave, the residence of the
18 juvenile during the leave, and the identity of the person responsible
19 for supervising the juvenile during the leave.

20 (7) The secretary may authorize a leave, which shall not exceed
21 forty-eight hours plus travel time, to meet an emergency situation such
22 as a death or critical illness of a member of the juvenile's family.
23 The secretary may authorize a leave, which shall not exceed the period
24 of time medically necessary, to obtain medical care not available in a
25 juvenile facility maintained by the department. In cases of emergency
26 or medical leave the secretary may waive all or any portions of
27 subsections (2)(a), (3), (4), (5), and (6) of this section.

28 (8) If requested by the juvenile's victim or the victim's
29 immediate family, the secretary shall give notice of any leave to the
30 victim or the victim's immediate family.

31 (9) A juvenile who violates any condition of an authorized leave
32 plan may be taken into custody and returned to the department in the
33 same manner as an adult in identical circumstances.

34 (10) Notwithstanding the provisions of this section, a juvenile
35 placed in minimum security status may participate in work, educational,
36 community service, or treatment programs in the community up to twelve
37 hours a day if approved by the secretary. Such a release shall not be
38 deemed a leave of absence.

1 (11) Subsections (6), (7), and (8) of this section do not apply to
2 juveniles covered by RCW 13.40.215.

3 **Sec. 810.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to
4 read as follows:

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

22 (b) After expiration of no more than sixty percent of the
23 juvenile's commitment term, the department shall provide a report
24 containing an evaluation of the juvenile's behavior and performance
25 during commitment. This report shall specifically describe the
26 juvenile's progress toward achieving the designated rehabilitative
27 goals.

28 (c) The department shall provide this report to the committing
29 court. The court, after considering the department's report, shall
30 determine a release or discharge date for the juvenile, which date
31 shall fall on or before expiration of the original term of commitment.
32 If the court sets a release date prior to expiration of the original
33 term, the court may suspend the remainder of the term.

34 (d) Nothing in this section entitles a juvenile to release prior
35 to the expiration of the term of confinement imposed by the court.

36 (e) The department shall establish by rule standards of good
37 behavior, good performance, and progress toward rehabilitative goals.

1 (f) After the court determines a release date, the secretary shall
2 release any juvenile committed to the custody of the department within
3 four calendar days prior to the juvenile's release date or on the
4 release date set under this chapter(~~(:—PROVIDED, That)~~). Days spent
5 in the custody of the department shall be tolled by any period of time
6 during which a juvenile has absented himself or herself from the
7 department's supervision without the prior approval of the secretary or
8 the secretary's designee.

9 (g) The early release provisions of this section do not apply to
10 confinement imposed under RCW 13.40.160(4)(c).

11 (2) The secretary shall monitor the average daily population of
12 the state's juvenile residential facilities. When the secretary
13 concludes that in-residence population of residential facilities
14 exceeds one hundred five percent of the rated bed capacity specified in
15 statute, or in absence of such specification, as specified by the
16 department in rule, the secretary may recommend reductions to the
17 governor. On certification by the governor that the recommended
18 reductions are necessary, the secretary has authority to
19 administratively release a sufficient number of offenders to reduce in-
20 residence population to one hundred percent of rated bed capacity. The
21 secretary shall release those offenders who have served the greatest
22 proportion of their sentence. However, the secretary may deny release
23 in a particular case at the request of an offender, or if the secretary
24 finds that there is no responsible custodian, as determined by the
25 department, to whom to release the offender, or if the release of the
26 offender would pose a clear danger to society. The department shall
27 notify the committing court of the release at the ~~((end of each~~
28 ~~calendar year))~~ time of release if any such early releases have
29 occurred ~~((during that year))~~ as a result of excessive in-residence
30 population. In no event shall ~~((a serious))~~ an offender~~(, as defined~~
31 ~~in RCW 13.40.020(1))~~ adjudicated of a violent offense be granted
32 release under the provisions of this subsection.

33 (3) Following the juvenile's release pursuant to subsection (1) of
34 this section, the secretary may require the juvenile to comply with a
35 program of parole to be administered by the department in his or her
36 community which shall last no longer than eighteen months, except that
37 in the case of a juvenile sentenced for rape in the first or second
38 degree, rape of a child in the first or second degree, child
39 molestation in the first degree, or indecent liberties with forcible

1 compulsion, the period of parole shall be twenty-four months. A parole
2 program is mandatory for offenders released under subsection (2) of
3 this section. The secretary shall, for the period of parole,
4 facilitate the juvenile's reintegration into his or her community and
5 to further this goal may require the juvenile to: (a) Undergo
6 available medical or psychiatric treatment; (b) report as directed to
7 a parole officer; (c) pursue a course of study or vocational training;
8 (d) remain within prescribed geographical boundaries and notify the
9 department of any change in his or her address; and (e) refrain from
10 committing new offenses. After termination of the parole period, the
11 juvenile shall be discharged from the department's supervision.

12 (4) The department may also modify parole for violation thereof.
13 If, after affording a juvenile all of the due process rights to which
14 he or she would be entitled if the juvenile were an adult, the
15 secretary finds that a juvenile has violated a condition of his or her
16 parole, the secretary shall order one of the following which is
17 reasonably likely to effectuate the purpose of the parole and to
18 protect the public: (a) Continued supervision under the same
19 conditions previously imposed; (b) intensified supervision with
20 increased reporting requirements; (c) additional conditions of
21 supervision authorized by this chapter; (d) except as provided in (e)
22 of this subsection, imposition of a period of confinement not to exceed
23 thirty days in a facility operated by or pursuant to a contract with
24 the state of Washington or any city or county for a portion of each day
25 or for a certain number of days each week with the balance of the days
26 or weeks spent under supervision; and (e) the secretary may order any
27 of the conditions or may return the offender to confinement in an
28 institution for the remainder of the sentence range if the offense for
29 which the offender was sentenced is rape in the first or second degree,
30 rape of a child in the first or second degree, child molestation in the
31 first degree, indecent liberties with forcible compulsion, or a sex
32 offense that is also a serious violent offense as defined by RCW
33 9.94A.030.

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

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

4 **Sec. 811.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
5 read as follows:

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

9 An appeal under this section shall be heard solely upon the record
10 that was before the disposition court. No written briefs may be
11 required, and the appeal shall be heard within thirty days following
12 the date of sentencing and a decision rendered within fifteen days
13 following the argument. The supreme court shall promulgate any
14 necessary rules to effectuate the purposes of this section.

15 (2) To uphold a disposition outside the standard range, (~~or which~~
16 ~~imposes confinement for a minor or first offender,)~~) the court of
17 appeals must find (a) that the reasons supplied by the disposition
18 judge are supported by the record which was before the judge and that
19 those reasons clearly and convincingly support the conclusion that a
20 disposition within the range(~~, or nonconfinement for a minor or first~~
21 ~~offender,)~~) would constitute a manifest injustice, and (b) that the
22 sentence imposed was neither clearly excessive nor clearly too lenient.

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

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

30 (5) Pending appeal, a respondent may not be committed or detained
31 for a period of time in excess of the standard range for the offense(s)
32 committed or sixty days, whichever is longer. The disposition court
33 may impose conditions on release pending appeal as provided in RCW
34 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of
35 commitment or detention specified in this subsection, the court may
36 also impose such conditions on the respondent's release pending
37 disposition of the appeal.

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

3 NEW SECTION. **Sec. 812.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 13.40.0354 and 1989 c 407 s 6;

6 (2) RCW 13.40.0357 and 1994 c . . . s 306 (section 306 of this
7 act) & 1989 c 407 s 7;

8 (3) RCW 13.40.--- and 1994 c . . . s 309 (section 309 of this
9 act); and

10 (4) 1994 c . . . s 509 (section 509 of this act).

11 **PART III - TECHNICAL PROVISIONS**

12 NEW SECTION. **Sec. 901.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 902.** Part and subpart headings and the table
17 of contents as used in this act do not constitute any part of the law.

18 NEW SECTION. **Sec. 903.** (1) Sections 101 through 703 of this act
19 shall take effect July 1, 1994.

20 (2) Sections 801 through 812 of this act shall take effect July 1,
21 1995.

22 NEW SECTION. **Sec. 904.** Sections 301, 307, 310, 313, and 314 of
23 this act shall expire July 1, 1995.

24 NEW SECTION. **Sec. 905.** (1) Sections 101 through 703 of this act
25 shall apply to offenses committed on or after July 1, 1994.

26 (2) Sections 801 through 812 of this act shall apply to offenses
27 committed on or after July 1, 1995.

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