
SECOND SUBSTITUTE HOUSE BILL 1255

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Padden, Appelwick, Ballasiotes, Carrell, Campbell, Ebersole, Cooke, Honeyford, Thompson, Elliot, Johnson, Goldsmith, Clements, Hickel, Dyer, Robertson, Mitchell, Schoesler, Wolfe, Benton, Romero, Cody, Sheahan, Ogden, Scott, Sherstad, Regala, Costa, Patterson, Kessler, Casada, Basich and Conway)

Read first time 03/24/95.

1 AN ACT Relating to juveniles; amending RCW 5.60.060, 9A.04.050,
2 13.04.030, 13.40.010, 13.40.025, 13.40.027, 13.40.030, 13.40.0357,
3 13.40.0357, 13.40.0357, 13.40.040, 13.40.045, 13.40.050, 13.40.060,
4 13.40.080, 13.40.125, 13.40.130, 13.40.150, 13.40.160, 13.40.185,
5 13.40.200, 13.40.210, and 13.40.320; reenacting and amending RCW
6 13.40.020; adding new sections to chapter 13.40 RCW; creating a new
7 section; prescribing penalties; providing effective dates; and
8 providing expiration dates.

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

10 **Sec. 1.** RCW 5.60.060 and 1989 c 271 s 301 are each amended to read
11 as follows:

12 (1) A husband shall not be examined for or against his wife,
13 without the consent of the wife, nor a wife for or against her husband
14 without the consent of the husband; nor can either during marriage or
15 afterward, be without the consent of the other, examined as to any
16 communication made by one to the other during marriage. But this
17 exception shall not apply to a civil action or proceeding by one
18 against the other, nor to a criminal action or proceeding for a crime
19 committed by one against the other, nor to a criminal action or

1 proceeding against a spouse if the marriage occurred subsequent to the
2 filing of formal charges against the defendant, nor to a criminal
3 action or proceeding for a crime committed by said husband or wife
4 against any child of whom said husband or wife is the parent or
5 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
6 PROVIDED, That the spouse of a person sought to be detained under
7 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
8 be so informed by the court prior to being called as a witness.

9 (2) An attorney or counselor shall not, without the consent of his
10 or her client, be examined as to any communication made by the client
11 to him or her, or his or her advice given thereon in the course of
12 professional employment.

13 (3) A parent shall not be examined as to a communication made by
14 that parent's minor child to the child's attorney after the filing of
15 juvenile offender or adult criminal charges, if the parent was present
16 at the time of the communication. This privilege does not extend to
17 communications made prior to filing of charges.

18 (4) A member of the clergy or a priest shall not, without the
19 consent of a person making the confession, be examined as to any
20 confession made to him or her in his or her professional character, in
21 the course of discipline enjoined by the church to which he or she
22 belongs.

23 (~~(4)~~) (5) Subject to the limitations under RCW 70.96A.140 or
24 71.05.250, a physician or surgeon or osteopathic physician or surgeon
25 shall not, without the consent of his or her patient, be examined in a
26 civil action as to any information acquired in attending such patient,
27 which was necessary to enable him or her to prescribe or act for the
28 patient, except as follows:

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

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

37 (~~(5)~~) (6) A public officer shall not be examined as a witness as
38 to communications made to him or her in official confidence, when the
39 public interest would suffer by the disclosure.

1 **Sec. 2.** RCW 9A.04.050 and 1975 1st ex.s. c 260 s 9A.04.050 are
2 each amended to read as follows:

3 Children under the age of eight years are incapable of committing
4 crime. Children of eight and under (~~((twelve))~~) ten years of age are
5 presumed to be incapable of committing crime, but this presumption may
6 be removed by proof that they have sufficient capacity to understand
7 the act or neglect, and to know that it was wrong. Whenever in legal
8 proceedings it becomes necessary to determine the age of a child, he or
9 she may be produced for inspection, to enable the court or jury to
10 determine the age thereby; and the court may also direct (~~((his))~~) the
11 child's examination by one or more physicians, whose opinion shall be
12 competent evidence upon the question of (~~((his))~~) the child's age.

13 **Sec. 3.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended to
14 read as follows:

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

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

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

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

24 (d) To approve or disapprove alternative residential placement as
25 provided in RCW 13.32A.170;

26 (e) Relating to juveniles alleged or found to have committed
27 offenses, traffic infractions, or violations as provided in RCW
28 13.40.020 through 13.40.230, unless:

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

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

33 (iii) The alleged offense or infraction is a traffic, fish,
34 boating, or game offense or traffic infraction committed by a juvenile
35 sixteen years of age or older and would, if committed by an adult, be
36 tried or heard in a court of limited jurisdiction, in which instance
37 the appropriate court of limited jurisdiction shall have jurisdiction
38 over the alleged offense or infraction: PROVIDED, That if such an

1 alleged offense or infraction and an alleged offense or infraction
2 subject to juvenile court jurisdiction arise out of the same event or
3 incident, the juvenile court may have jurisdiction of both matters:
4 PROVIDED FURTHER, That the jurisdiction under this subsection does not
5 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
6 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
7 jurisdiction which confine juveniles for an alleged offense or
8 infraction may place juveniles in juvenile detention facilities under
9 an agreement with the officials responsible for the administration of
10 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

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

23 If the juvenile challenges the state's determination of the
24 juvenile's criminal history, the state may establish the offender's
25 criminal history by a preponderance of the evidence. If the criminal
26 history consists of adjudications entered upon a plea of guilty, the
27 state shall not bear a burden of establishing the knowing and
28 voluntariness of the plea;

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

31 (g) Relating to termination of a diversion agreement under RCW
32 13.40.080, including a proceeding in which the divertee has attained
33 eighteen years of age; and

34 (h) Relating to court validation of a voluntary consent to foster
35 care placement under chapter 13.34 RCW, by the parent or Indian
36 custodian of an Indian child, except if the parent or Indian custodian
37 and child are residents of or domiciled within the boundaries of a
38 federally recognized Indian reservation over which the tribe exercises
39 exclusive jurisdiction.

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

5 (3) A juvenile subject to adult superior court jurisdiction under
6 subsection (1)(e) (i) through (iv) of this section, who is detained
7 pending trial, may be detained in a county detention facility as
8 defined in RCW 13.40.020 pending sentencing or a dismissal.

9 (4) A parent, guardian, or custodian who has custody of any
10 juvenile described in this section, if such parent, guardian, or
11 custodian was served with a summons, shall be subject to the
12 jurisdiction of the court for purposes of enforcing required attendance
13 at juvenile court hearings.

14 **Sec. 4.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to
15 read as follows:

16 (1) This chapter shall be known and cited as the Juvenile Justice
17 Act of 1977.

18 (2) It is the intent of the legislature that a system capable of
19 having primary responsibility for, being accountable for, and
20 responding to the needs of youthful offenders, as defined by this
21 chapter, be established. It is the further intent of the legislature
22 that youth, in turn, be held accountable for their offenses and that
23 ~~((both))~~ communities, families, and the juvenile courts carry out their
24 functions consistent with this intent. To effectuate these policies,
25 the legislature declares the following to be equally important purposes
26 of this chapter:

27 (a) Protect the citizenry from criminal behavior;

28 (b) Provide for determining whether accused juveniles have
29 committed offenses as defined by this chapter;

30 (c) Make the juvenile offender accountable for his or her criminal
31 behavior;

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

34 (e) Provide due process for juveniles alleged to have committed an
35 offense;

36 (f) Provide necessary treatment, supervision, and custody for
37 juvenile offenders;

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

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

4 (i) Develop effective standards and goals for the operation,
5 funding, and evaluation of all components of the juvenile justice
6 system and related services at the state and local levels; ((and))

7 (j) Provide for a clear policy to determine what types of offenders
8 shall receive punishment, treatment, or both, and to determine the
9 jurisdictional limitations of the courts, institutions, and community
10 services; and

11 (k) Encourage the parents, guardian, or custodian of the juvenile
12 to actively participate in the juvenile justice process.

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

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

24 (2) A parent or guardian who has signed for a probation bond,
25 deposited cash, or posted other collateral on behalf of a juvenile has
26 the right to notify the court if the juvenile violates any of the terms
27 and conditions of the bond. The parent or guardian who signed for a
28 probation bond may move the court to modify the terms of the bond or
29 revoke the bond without penalty to the surety or parent. The court
30 shall notify the surety if a parent or guardian notifies the court that
31 the juvenile has violated conditions of the probation bond and has
32 requested modification or revocation of the bond. At a hearing on the
33 motion, the court may consider the nature and seriousness of the
34 violation or violations and may either keep the bond in effect, modify
35 the terms of the bond with the consent of the parent or guardian and
36 surety, or revoke the bond. If the court revokes the bond the court
37 may require full payment of the face amount of the bond. In the
38 alternative, the court may revoke the bond and impose a partial payment

1 for less than the full amount of the bond or may revoke the bond
2 without imposing any penalty. In reaching its decision, the court may
3 consider the timeliness of the parent's or guardian's notification to
4 the court and the efforts of the parent and surety to monitor the
5 offender's compliance with conditions of the bond and release. A
6 surety shall have the same obligations and rights as provided sureties
7 in adult criminal cases. Rules of forfeiture and revocation of bonds
8 issued in adult criminal cases shall apply to forfeiture and revocation
9 of probation bonds issued under this chapter except as specifically
10 provided in this subsection.

11 **Sec. 6.** RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,
12 and 1994 c 261 s 18 are each reenacted and amended to 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;

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 or an
33 order granting a deferred adjudication pursuant to RCW 13.40.125. A
34 community supervision order for a single offense may be for a period of
35 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
36 one year for other offenses. As a mandatory condition of any term of
37 community supervision, the court shall order the juvenile to refrain
38 from committing new offenses. As a mandatory condition of community

1 supervision, the court shall order the juvenile to comply with the
2 mandatory school attendance provisions of chapter 28A.225 RCW and to
3 inform the school of the existence of this requirement. Community
4 supervision is an individualized program comprised of one or more of
5 the following:

6 (a) Community-based sanctions;

7 (b) Community-based rehabilitation;

8 (c) Monitoring and reporting requirements;

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

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

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

13 (b) Community service not to exceed one hundred fifty hours of
14 service;

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

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

31 (7) "Confinement" means physical custody by the department of
32 social and health services in a facility operated by or pursuant to a
33 contract with the state, or physical custody in a detention facility
34 operated by or pursuant to a contract with any county. The county may
35 operate or contract with vendors to operate county detention
36 facilities. The department may operate or contract to operate
37 detention facilities for juveniles committed to the department.
38 Pretrial confinement or confinement of less than thirty-one days

1 imposed as part of a disposition or modification order may be served
2 consecutively or intermittently, in the discretion of the court;

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

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

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

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

17 (10) "Department" means the department of social and health
18 services;

19 (11) "Detention facility" means a county facility, paid for by the
20 county, for the physical confinement of a juvenile alleged to have
21 committed an offense or an adjudicated offender subject to a
22 disposition or modification order. "Detention facility" includes
23 county group homes, inpatient substance abuse programs, juvenile basic
24 training camps, and electronic monitoring;

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

1 student, parent, and business owner, and should represent the cultural
2 diversity of the local community;

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

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

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

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

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

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

21 (a) Four misdemeanors;

22 (b) Two misdemeanors and one gross misdemeanor;

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

24 (d) Three gross misdemeanors.

25 For purposes of this definition, current violations shall be
26 counted as misdemeanors;

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

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

33 (21) "Restitution" means financial reimbursement by the offender to
34 the victim, and shall be limited to easily ascertainable damages for
35 injury to or loss of property, actual expenses incurred for medical
36 treatment for physical injury to persons, lost wages resulting from
37 physical injury, and costs of the victim's counseling reasonably
38 related to the offense if the offense is a sex offense. Restitution
39 shall not include reimbursement for damages for mental anguish, pain

1 and suffering, or other intangible losses. Nothing in this chapter
2 shall limit or replace civil remedies or defenses available to the
3 victim or offender;

4 (22) "Secretary" means the secretary of the department of social
5 and health services. "Assistant secretary" means the assistant
6 secretary for juvenile rehabilitation for the department;

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

11 (24) "Sex offense" means an offense defined as a sex offense in RCW
12 9.94A.030;

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

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

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

22 (28) "Violent offense" means a violent offense as defined in RCW
23 9.94A.030;

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

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

35 **Sec. 7.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
36 as follows:

37 (1) There is established a juvenile disposition standards
38 commission to propose disposition standards to the legislature in

1 accordance with RCW 13.40.030 and perform the other responsibilities
2 set forth in this chapter.

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

25 (3) The ~~((secretary or the secretary's designee shall serve as~~
26 ~~chairman of the))~~ commission members shall elect a chair from their
27 membership.

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

1 (5) Commission members shall be reimbursed for travel expenses as
2 provided in RCW 43.03.050 and 43.03.060. Legislative members shall be
3 reimbursed by their respective houses as provided under RCW 44.04.120.
4 Members shall be compensated in accordance with RCW 43.03.240.

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

6 (7) Other than the ex officio members, the voting members of the
7 commission shall serve terms of three years and until their successors
8 are appointed and confirmed. However, the governor shall stagger the
9 terms by appointing one-third of the initial members for terms of one
10 year and one-third of the initial members for terms of two years.

11 **Sec. 8.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
12 as follows:

13 (1) It is the responsibility of the commission to: (a)(i) Evaluate
14 the effectiveness of existing disposition standards and related
15 statutes in implementing policies set forth in RCW 13.40.010 generally,
16 (ii) specifically review the guidelines relating to the confinement of
17 minor and first offenders as well as the use of diversion, and (iii)
18 review the application of current and proposed juvenile sentencing
19 standards and guidelines for potential adverse impacts on the
20 sentencing outcomes of racial and ethnic minority youth; (b) solicit
21 the comments and suggestions of the juvenile justice community
22 concerning disposition standards; and (c) make recommendations to the
23 legislature regarding revisions or modifications of the disposition
24 standards in accordance with RCW 13.40.030. The evaluations shall be
25 submitted to the legislature on December 1 of each even-numbered year
26 ((thereafter)).

27 (2) It is the responsibility of the department to: (a) Provide the
28 commission with available data concerning the implementation of the
29 disposition standards and related statutes and their effect on the
30 performance of the department's responsibilities relating to juvenile
31 offenders; and (b) ~~((at the request of the commission, provide~~
32 ~~technical and administrative assistance to the commission in the~~
33 ~~performance of its responsibilities; and (c)))~~ provide the commission
34 and legislature with recommendations for modification of the
35 disposition standards.

36 (3) It is the responsibility of the sentencing guidelines
37 commission established under RCW 9.94A.040 to provide staffing and
38 services to the commission.

1 **Sec. 9.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
2 as follows:

3 (1)~~((a))~~) The juvenile disposition standards commission shall
4 recommend to the legislature no later than ~~((November 1st of each~~
5 ~~year))~~ December 1, 1995, disposition standards for all offenses. The
6 standards shall establish, in accordance with the purposes of this
7 chapter, ranges which may include terms of confinement and/or community
8 supervision established on the basis of ~~((a youth's age,))~~ the instant
9 offense~~((,))~~ and the history and seriousness of previous offenses, but
10 in no case may the period of confinement and supervision exceed that to
11 which an adult may be subjected for the same offense(s). Standards
12 recommended for offenders listed in RCW 13.40.020(1) shall include a
13 range of confinement which may not be less than thirty days. No
14 standard range may include a period of confinement which includes both
15 more than thirty, and thirty or less, days. Disposition standards
16 recommended by the commission shall provide that in all cases where a
17 youth is sentenced to a term of confinement in excess of thirty days
18 the department may impose an additional period of parole ~~((not to~~
19 ~~exceed eighteen months))~~. Standards of confinement which may be
20 proposed may relate only to the length of the proposed terms and not to
21 the nature of the security to be imposed. ~~((In developing recommended~~
22 ~~disposition standards, the commission shall consider the capacity of~~
23 ~~the state juvenile facilities and the projected impact of the proposed~~
24 ~~standards on that capacity.~~

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

1 ~~include security status definitions in the security guidelines it~~
2 ~~submits to the legislature pursuant to this section.))~~

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

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

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

12 (c) ~~Where the maximum term in the range is more than one year, the~~
13 ~~minimum term in the range may be no less than eighty percent of the~~
14 ~~maximum term in the range.))~~ The commission's recommendations for new

15 disposition standards shall result in a simplified sentencing system.
16 In setting the new standards, the commission shall focus on the need to
17 protect public safety by emphasizing punishment, deterrence, and
18 confinement for violent and repeat offenders. The seriousness of the
19 offense shall be the most important factor in determining the length of
20 confinement, while the offender's age and criminal history shall count
21 as contributing factors. The commission shall increase judicial
22 flexibility and discretion by broadening standard ranges of
23 confinement. The commission shall provide for the use of basic
24 training camp programs. Alternatives to total confinement shall be
25 considered for nonviolent offenders. The commission shall take into
26 account, but not be limited by, the capacity of state juvenile
27 facilities, including the additional capacity that is being developed
28 or that can feasibly be developed in the near future.

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

31 The secretary shall submit a report on security at juvenile
32 facilities during the preceding year. The report shall include the
33 number of escapes from each juvenile facility, the most serious offense
34 for which each escapee had been confined, the number and nature of
35 offenses found to have been committed by juveniles while on escape
36 status, the number of authorized leaves granted, the number of failures
37 to comply with leave requirements, the number and nature of offenses
38 committed while on leave, and the number and nature of offenses

1 committed by juveniles while in the community on minimum security
 2 status; to the extent this information is available to the secretary.
 3 The department shall include security status definitions in the report
 4 it submits to the legislature pursuant to this section. The report
 5 shall be submitted no later than December 15th of each year.

6 NEW SECTION. **Sec. 11.** The legislature finds that the current
 7 terms of confinement for juvenile offenders committed to the department
 8 are too short to provide meaningful punishment and rehabilitation
 9 programs. The legislature intends to increase those terms of
 10 confinement but recognizes that the state currently lacks the
 11 facilities that are needed to confine more juveniles for longer
 12 periods. Therefore, the legislature intends to delay the effective
 13 date of increased disposition ranges to allow sufficient time to site,
 14 remodel, or build facilities to house an increased number of juvenile
 15 offenders committed to the state.

16 **Sec. 12.** RCW 13.40.0357 and 1994 sp.s. c 7 s 522 are each amended
 17 to read as follows:

18 SCHEDULE A
 19 DESCRIPTION AND OFFENSE CATEGORY

20			JUVENILE
21	JUVENILE		DISPOSITION
22	DISPOSITION		CATEGORY FOR ATTEMPT,
23	OFFENSE		BAILJUMP, CONSPIRACY,
24	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
25		

26	Arson and Malicious Mischief		
27	A	Arson 1 (9A.48.020)	B+
28	B	Arson 2 (9A.48.030)	C
29	C	Reckless Burning 1 (9A.48.040)	D
30	D	Reckless Burning 2 (9A.48.050)	E
31	B	Malicious Mischief 1 (9A.48.070)	C
32	C	Malicious Mischief 2 (9A.48.080)	D
33	D	Malicious Mischief 3 (<\$50 is	
34		E class) (9A.48.090)	E

1	E	Tampering with Fire Alarm	
2		Apparatus (9.40.100)	E
3	A	Possession of Incendiary Device	
4		(9.40.120)	B+
5		Assault and Other Crimes	
6		Involving Physical Harm	
7	A	Assault 1 (9A.36.011)	B+
8	B+	Assault 2 (9A.36.021)	C+
9	C+	Assault 3 (9A.36.031)	D+
10	D+	Assault 4 (9A.36.041)	E
11	D+	Reckless Endangerment	
12		(9A.36.050)	E
13	C+	Promoting Suicide Attempt	
14		(9A.36.060)	D+
15	D+	Coercion (9A.36.070)	E
16	C+	Custodial Assault (9A.36.100)	D+
17		Burglary and Trespass	
18	B+	Burglary 1 (9A.52.020)	C+
19	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
20	B	Burglary 2 (9A.52.030)	C
21	D	Burglary Tools (Possession of)	
22		(9A.52.060)	E
23	D	Criminal Trespass 1 (9A.52.070)	E
24	E	Criminal Trespass 2 (9A.52.080)	E
25	D	Vehicle Prowling (9A.52.100)	E
26		Drugs	
27	E	Possession/Consumption of Alcohol	
28		(66.44.270)	E
29	C	Illegally Obtaining Legend Drug	
30		(69.41.020)	D
31	C+	Sale, Delivery, Possession of Legend	
32		Drug with Intent to Sell	
33		(69.41.030)	D+
34	E	Possession of Legend Drug	
35		(69.41.030)	E

1	B+	Violation of Uniform Controlled	
2		Substances Act - Narcotic Sale	
3		(69.50.401(a)(1)(i))	B+
4	C	Violation of Uniform Controlled	
5		Substances Act - Nonnarcotic Sale	
6		(69.50.401(a)(1)(ii))	C
7	E	Possession of Marihuana <40 grams	
8		(69.50.401(e))	E
9	C	Fraudulently Obtaining Controlled	
10		Substance (69.50.403)	C
11	C+	Sale of Controlled Substance	
12		for Profit (69.50.410)	C+
13	E	Unlawful Inhalation (9.47A.020)	E
14	B	Violation of Uniform Controlled	
15		Substances Act - Narcotic	
16		Counterfeit Substances	
17		(69.50.401(b)(1)(i))	B
18	C	Violation of Uniform Controlled	
19		Substances Act - Nonnarcotic	
20		Counterfeit Substances	
21		(69.50.401(b)(1) (ii), (iii), (iv))	C
22	C	Violation of Uniform Controlled	
23		Substances Act - Possession of a	
24		Controlled Substance	
25		(69.50.401(d))	C
26	C	Violation of Uniform Controlled	
27		Substances Act - Possession of a	
28		Controlled Substance	
29		(69.50.401(c))	C
30		Firearms and Weapons	
31	E	Carrying Loaded Pistol Without	
32		Permit (9.41.050)	E
33	C	Possession of Firearms by	
34		Minor (<18) (9.41.040(1)(e))	C
35	D+	Possession of Dangerous Weapon	
36		(9.41.250)	E
37	D	Intimidating Another Person by use	
38		of Weapon (9.41.270)	E

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

1	A-	Rape of a Child 1 (9A.44.073)	B+
2	B	Rape of a Child 2 (9A.44.076)	C+
3	B	Incest 1 (9A.64.020(1))	C
4	C	Incest 2 (9A.64.020(2))	D
5	D+	Indecent Exposure	
6		(Victim <14) (9A.88.010)	E
7	E	Indecent Exposure	
8		(Victim 14 or over) (9A.88.010)	E
9	B+	Promoting Prostitution 1	
10		(9A.88.070)	C+
11	C+	Promoting Prostitution 2	
12		(9A.88.080)	D+
13	E	O & A (Prostitution) (9A.88.030)	E
14	B+	Indecent Liberties (9A.44.100)	C+
15	B+	Child Molestation 1 (9A.44.083)	C+
16	C+	Child Molestation 2 (9A.44.086)	C
17		Theft, Robbery, Extortion, and Forgery	
18	B	Theft 1 (9A.56.030)	C
19	C	Theft 2 (9A.56.040)	D
20	D	Theft 3 (9A.56.050)	E
21	B	Theft of Livestock (9A.56.080)	C
22	C	Forgery (9A.60.020)	D
23	A	Robbery 1 (9A.56.200)	B+
24	B+	Robbery 2 (9A.56.210)	C+
25	B+	Extortion 1 (9A.56.120)	C+
26	C+	Extortion 2 (9A.56.130)	D+
27	B	Possession of Stolen Property 1	
28		(9A.56.150)	C
29	C	Possession of Stolen Property 2	
30		(9A.56.160)	D
31	D	Possession of Stolen Property 3	
32		(9A.56.170)	E
33	C	Taking Motor Vehicle Without	
34		Owner's Permission (9A.56.070)	D
35		Motor Vehicle Related Crimes	
36	E	Driving Without a License	
37		(46.20.021)	E

1	C	Hit and Run - Injury	
2		(46.52.020(4))	D
3	D	Hit and Run-Attended	
4		(46.52.020(5))	E
5	E	Hit and Run-Unattended	
6		(46.52.010)	E
7	C	Vehicular Assault (46.61.522)	D
8	C	Attempting to Elude Pursuing	
9		Police Vehicle (46.61.024)	D
10	E	Reckless Driving (46.61.500)	E
11	D	Driving While Under the Influence	
12		((46.61.515) <u>46.61.502 or</u>	
13		<u>46.61.504</u>)	E
14	D	Vehicle Prowling (9A.52.100)	E
15	C	Taking Motor Vehicle Without	
16		Owner's Permission (9A.56.070)	D
17		Other	
18	B	Bomb Threat (9.61.160)	C
19	C	Escape 1 (9A.76.110)	C
20	C	Escape 2 (9A.76.120)	C
21	D	Escape 3 (9A.76.130)	E
22	((C	Failure to Appear in Court	
23		(10.19.130)	D))
24	E	Obscene, Harassing, Etc.,	
25		Phone Calls (9.61.230)	E
26	A	Other Offense Equivalent to an	
27		Adult Class A Felony	B+
28	B	Other Offense Equivalent to an	
29		Adult Class B Felony	C
30	C	Other Offense Equivalent to an	
31		Adult Class C Felony	D
32	D	Other Offense Equivalent to an	
33		Adult Gross Misdemeanor	E
34	E	Other Offense Equivalent to an	
35		Adult Misdemeanor	E
36	V	Violation of Order of Restitution,	
37		Community Supervision, or	
38		Confinement ² (13.40.200)	V

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

3 1st escape or attempted escape during 12-month period - 4 weeks
4 confinement

5 2nd escape or attempted escape during 12-month period - 8 weeks
6 confinement

7 3rd and subsequent escape or attempted escape during 12-month
8 period - 12 weeks confinement

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

11 SCHEDULE B
12 PRIOR OFFENSE INCREASE FACTOR

13 For use with all CURRENT OFFENSES occurring on or after July 1,
14 1989.

15 TIME SPAN

16 OFFENSE	0-12	13-24	25 Months
17 CATEGORY	Months	Months	or More
18			
19 A+	.9	.9	.9
20 A	.9	.8	.6
21 A-	.9	.8	.5
22 B+	.9	.7	.4
23 B	.9	.6	.3
24 C+	.6	.3	.2
25 C	.5	.2	.2
26 D+	.3	.2	.1
27 D	.2	.1	.1
28 E	.1	.1	.1

29 Prior history - Any offense in which a diversion agreement or counsel
30 and release form was signed, or any offense which has been adjudicated

1 by court to be correct prior to the commission of the current
2 offense(s).

3 SCHEDULE C
4 CURRENT OFFENSE POINTS

5 For use with all CURRENT OFFENSES occurring on or after July 1,
6 1989.

7 AGE

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

21 JUVENILE SENTENCING STANDARDS
22 SCHEDULE D-1

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

1 MINOR/FIRST OFFENDER

2 OPTION A

3 STANDARD RANGE

4 Community

5 Community

Service

6 Points

Supervision

Hours

Fine

7	((1-9	0-3 months	and/or 0-8	and/or 0-\$10
8	10-19	0-3 months	and/or 0-8	and/or 0-\$10
9	20-29	0-3 months	and/or 0-16	and/or 0-\$10
10	30-39	0-3 months	and/or 8-24	and/or 0-\$25
11	40-49	3-6 months	and/or 16-32	and/or 0-\$25
12	50-59	3-6 months	and/or 24-40	and/or 0-\$25
13	60-69	6-9 months	and/or 32-48	and/or 0-\$50
14	70-79	6-9 months	and/or 40-56	and/or 0-\$50
15	80-89	9-12 months	and/or 48-64	and/or 10-\$100
16	90-109	9-12 months	and/or 56-72	and/or 10-\$100))
17	<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>

18 A minor/first offender receiving an option A disposition may also be
19 required to post a probation bond.

20 OR

21 OPTION B

22 STATUTORY OPTION

23 0-90 Days Inpatient Substance Abuse Treatment

24 0-12 Months Community Supervision

25 ~~((0-150 Hours Community Service~~

26 ~~0-100 Fine))~~

27 Posting of a Probation Bond

28 ~~((A term of community supervision with a maximum of 150 hours, \$100.00~~
29 ~~fine, and 12 months supervision.))~~

30 OR

31 OPTION C

32 MANIFEST INJUSTICE

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

6 JUVENILE SENTENCING STANDARDS
 7 SCHEDULE D-2

8 This schedule may only be used for middle offenders. After the
 9 determination is made that a youth is a middle offender, the court has
 10 the discretion to select sentencing option A, B, ~~((or))~~ C, or D as
 11 applicable.

12 MIDDLE OFFENDER

13 OPTION A
 14 STANDARD RANGE

15		Community			
16	Points	Supervision	Service Hours	Fine	Confinement
17					((Days-Weeks))
18
19	((1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
21	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
22	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
23	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
24	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
25	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
26	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
27	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
28	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30))
29					(Days)
30	<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
31					(Weeks)
32	110-129				8-12
33	130-149				13-16

1	150-199	21-28
2	200-249	30-40
3	250-299	52-65
4	300-374	80-100
5	375+	103-129

6 Middle offenders with less than 110 points receiving a disposition
7 under option A may also be required to post a probation bond.

8 Middle offenders with less than 110 points do not have to receive a
9 disposition under option A. They may be sent to inpatient substance
10 abuse treatment under option D.

11 Middle offenders with ~~((more than))~~ 110 points or more do not have to
12 be committed to the department. They may be assigned community
13 supervision under option B.

14 All A+ offenses 180-224 weeks

15 OR

16

17 OPTION B

18 STATUTORY OPTION

19 OFFENDERS WITH 110 POINTS OR MORE

20 ~~((0-12 Months Community Supervision~~

21 ~~0-150 Hours Community Service~~

22 ~~0-100 Fine))~~

23 The court may impose ~~((a determinate disposition of community~~
24 ~~supervision and/or up to 30 days confinement; in which case, if~~
25 ~~confinement has been imposed, the court shall state either aggravating~~
26 ~~or mitigating factors as set forth in RCW 13.40.150)) an option B~~

27 disposition as provided in RCW 13.40.160(4)(b) for offenders with 110
28 points or more. As part of an option B disposition, the court may also
29 require posting of a probation bond.

30 OR

31

1 OPTION C
2 MANIFEST INJUSTICE
3 ALL MIDDLE OFFENDERS

4 If the court determines that a disposition under A (~~(or)~~), B, or D as
5 applicable would effectuate a manifest injustice, the court shall
6 sentence the juvenile to a maximum term and the provisions of RCW
7 13.40.030(2) shall be used to determine the range.

8 OPTION D
9 OFFENDERS UNDER 110 POINTS

- 10 0-90 Days Inpatient Substance Abuse Treatment
- 11 0-12 Months Community Supervision
- 12 Posting of a Probation Bond

13 JUVENILE SENTENCING STANDARDS
14 SCHEDULE D-3

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

18 SERIOUS OFFENDER
19 OPTION A
20 STANDARD RANGE

21	Points	Institution Time
22	0-129	8-12 weeks
23	130-149	13-16 weeks
24	150-199	21-28 weeks
25	200-249	30-40 weeks
26	250-299	52-65 weeks
27	300-374	80-100 weeks
28	375+	103-129 weeks
29	All A+	
30	Offenses	180-224 weeks

OR

OPTION B

MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting of a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range.

Sec. 13. RCW 13.40.0357 and 1994 sp.s. c 7 s 522 are each amended to read as follows:

SCHEDULE A

DESCRIPTION AND OFFENSE CATEGORY

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

Arson and Malicious Mischief		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is	
E	E class) (9A.48.090)	E
E	Tampering with Fire Alarm	
E	Apparatus (9.40.100)	E
A	Possession of Incendiary Device	
E	(9.40.120)	B+

1		Assault and Other Crimes	
2		Involving Physical Harm	
3	A	Assault 1 (9A.36.011)	B+
4	B+	Assault 2 (9A.36.021)	C+
5	C+	Assault 3 (9A.36.031)	D+
6	D+	Assault 4 (9A.36.041)	E
7	D+	Reckless Endangerment	
8		(9A.36.050)	E
9	C+	Promoting Suicide Attempt	
10		(9A.36.060)	D+
11	D+	Coercion (9A.36.070)	E
12	C+	Custodial Assault (9A.36.100)	D+
13		Burglary and Trespass	
14	B+	Burglary 1 (9A.52.020)	C+
15	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
16	B	Burglary 2 (9A.52.030)	C
17	D	Burglary Tools (Possession of)	
18		(9A.52.060)	E
19	D	Criminal Trespass 1 (9A.52.070)	E
20	E	Criminal Trespass 2 (9A.52.080)	E
21	D	Vehicle Prowling (9A.52.100)	E
22		Drugs	
23	E	Possession/Consumption of Alcohol	
24		(66.44.270)	E
25	C	Illegally Obtaining Legend Drug	
26		(69.41.020)	D
27	C+	Sale, Delivery, Possession of Legend	
28		Drug with Intent to Sell	
29		(69.41.030)	D+
30	E	Possession of Legend Drug	
31		(69.41.030)	E
32	B+	Violation of Uniform Controlled	
33		Substances Act - Narcotic Sale	
34		(69.50.401(a)(1)(i))	B+
35	C	Violation of Uniform Controlled	
36		Substances Act - Nonnarcotic Sale	
37		(69.50.401(a)(1)(ii))	C

1	E	Possession of Marihuana <40 grams	
2		(69.50.401(e))	E
3	C	Fraudulently Obtaining Controlled	
4		Substance (69.50.403)	C
5	C+	Sale of Controlled Substance	
6		for Profit (69.50.410)	C+
7	E	Unlawful Inhalation (9.47A.020)	E
8	B	Violation of Uniform Controlled	
9		Substances Act - Narcotic	
10		Counterfeit Substances	
11		(69.50.401(b)(1)(i))	B
12	C	Violation of Uniform Controlled	
13		Substances Act - Nonnarcotic	
14		Counterfeit Substances	
15		(69.50.401(b)(1) (ii), (iii), (iv))	C
16	C	Violation of Uniform Controlled	
17		Substances Act - Possession of a	
18		Controlled Substance	
19		(69.50.401(d))	C
20	C	Violation of Uniform Controlled	
21		Substances Act - Possession of a	
22		Controlled Substance	
23		(69.50.401(c))	C
24		Firearms and Weapons	
25	E	Carrying Loaded Pistol Without	
26		Permit (9.41.050)	E
27	C	Possession of Firearms by	
28		Minor (<18) (9.41.040(1)(e))	C
29	D+	Possession of Dangerous Weapon	
30		(9.41.250)	E
31	D	Intimidating Another Person by use	
32		of Weapon (9.41.270)	E
33		Homicide	
34	A+	Murder 1 (9A.32.030)	A
35	A+	Murder 2 (9A.32.050)	B+
36	B+	Manslaughter 1 (9A.32.060)	C+
37	C+	Manslaughter 2 (9A.32.070)	D+

1	B+	Vehicular Homicide (46.61.520)	C+
2		Kidnapping	
3	A	Kidnap 1 (9A.40.020)	B+
4	B+	Kidnap 2 (9A.40.030)	C+
5	C+	Unlawful Imprisonment	
6		(9A.40.040)	D+
7		Obstructing Governmental Operation	
8	E	Obstructing a ((Public Servant))	
9		<u>Law Enforcement Officer</u> (9A.76.020)	E
10	E	Resisting Arrest (9A.76.040)	E
11	B	Introducing Contraband 1	
12		(9A.76.140)	C
13	C	Introducing Contraband 2	
14		(9A.76.150)	D
15	E	Introducing Contraband 3	
16		(9A.76.160)	E
17	B+	Intimidating a Public Servant	
18		(9A.76.180)	C+
19	B+	Intimidating a Witness	
20		(9A.72.110)	C+
21		Public Disturbance	
22	C+	Riot with Weapon (9A.84.010)	D+
23	D+	Riot Without Weapon	
24		(9A.84.010)	E
25	E	Failure to Disperse (9A.84.020)	E
26	E	Disorderly Conduct (9A.84.030)	E
27		Sex Crimes	
28	A	Rape 1 (9A.44.040)	B+
29	A-	Rape 2 (9A.44.050)	B+
30	C+	Rape 3 (9A.44.060)	D+
31	A-	Rape of a Child 1 (9A.44.073)	B+
32	B	Rape of a Child 2 (9A.44.076)	C+
33	B	Incest 1 (9A.64.020(1))	C
34	C	Incest 2 (9A.64.020(2))	D

1	D+	Indecent Exposure	
2		(Victim <14) (9A.88.010)	E
3	E	Indecent Exposure	
4		(Victim 14 or over) (9A.88.010)	E
5	B+	Promoting Prostitution 1	
6		(9A.88.070)	C+
7	C+	Promoting Prostitution 2	
8		(9A.88.080)	D+
9	E	O & A (Prostitution) (9A.88.030)	E
10	B+	Indecent Liberties (9A.44.100)	C+
11	B+	Child Molestation 1 (9A.44.083)	C+
12	C+	Child Molestation 2 (9A.44.086)	C
13		Theft, Robbery, Extortion, and Forgery	
14	B	Theft 1 (9A.56.030)	C
15	C	Theft 2 (9A.56.040)	D
16	D	Theft 3 (9A.56.050)	E
17	B	Theft of Livestock (9A.56.080)	C
18	C	Forgery (9A.60.020)	D
19	A	Robbery 1 (9A.56.200)	B+
20	B+	Robbery 2 (9A.56.210)	C+
21	B+	Extortion 1 (9A.56.120)	C+
22	C+	Extortion 2 (9A.56.130)	D+
23	B	Possession of Stolen Property 1	
24		(9A.56.150)	C
25	C	Possession of Stolen Property 2	
26		(9A.56.160)	D
27	D	Possession of Stolen Property 3	
28		(9A.56.170)	E
29	C	Taking Motor Vehicle Without	
30		Owner's Permission (9A.56.070)	D
31		Motor Vehicle Related Crimes	
32	E	Driving Without a License	
33		(46.20.021)	E
34	C	Hit and Run - Injury	
35		(46.52.020(4))	D
36	D	Hit and Run-Attended	
37		(46.52.020(5))	E

1	E	Hit and Run-Unattended	
2		(46.52.010)	E
3	C	Vehicular Assault (46.61.522)	D
4	C	Attempting to Elude Pursuing	
5		Police Vehicle (46.61.024)	D
6	E	Reckless Driving (46.61.500)	E
7	D	Driving While Under the Influence	
8		((46.61.515) <u>46.61.502 or</u>	
9		<u>46.61.504</u>)	E
10	D	Vehicle Prowling (9A.52.100)	E
11	C	Taking Motor Vehicle Without	
12		Owner's Permission (9A.56.070)	D
13		Other	
14	B	Bomb Threat (9.61.160)	C
15	C	Escape 1 (9A.76.110)	C
16	C	Escape 2 (9A.76.120)	C
17	D	Escape 3 (9A.76.130)	E
18	(C	Failure to Appear in Court	
19		(10.19.130)	D)
20	E	Obscene, Harassing, Etc.,	
21		Phone Calls (9.61.230)	E
22	A	Other Offense Equivalent to an	
23		Adult Class A Felony	B+
24	B	Other Offense Equivalent to an	
25		Adult Class B Felony	C
26	C	Other Offense Equivalent to an	
27		Adult Class C Felony	D
28	D	Other Offense Equivalent to an	
29		Adult Gross Misdemeanor	E
30	E	Other Offense Equivalent to an	
31		Adult Misdemeanor	E
32	V	Violation of Order of Restitution,	
33		Community Supervision, or	
34		Confinement ² (13.40.200)	V

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

1 1st escape or attempted escape during 12-month period - 4 weeks
 2 confinement
 3 2nd escape or attempted escape during 12-month period - 8 weeks
 4 confinement
 5 3rd and subsequent escape or attempted escape during 12-month
 6 period - 12 weeks confinement

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

9 SCHEDULE B

10 PRIOR OFFENSE INCREASE FACTOR

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

13 TIME SPAN

14 OFFENSE	0-12	13-24	25 Months
15 CATEGORY	Months	Months	or More
16			
17 A+	.9	.9	.9
18 A	.9	.8	.6
19 A-	.9	.8	.5
20 B+	.9	.7	.4
21 B	.9	.6	.3
22 C+	.6	.3	.2
23 C	.5	.2	.2
24 D+	.3	.2	.1
25 D	.2	.1	.1
26 E	.1	.1	.1

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

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SCHEDULE C
CURRENT OFFENSE POINTS

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

AGE

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

JUVENILE SENTENCING STANDARDS
SCHEDULE D-1

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

1 MINOR/FIRST OFFENDER

2 OPTION A

3 STANDARD RANGE

4 Community

5 Community

Service

6 Points

Supervision

Hours

Fine

7	((1-9	0-3 months	and/or 0-8	and/or 0-\$10
8	10-19	0-3 months	and/or 0-8	and/or 0-\$10
9	20-29	0-3 months	and/or 0-16	and/or 0-\$10
10	30-39	0-3 months	and/or 8-24	and/or 0-\$25
11	40-49	3-6 months	and/or 16-32	and/or 0-\$25
12	50-59	3-6 months	and/or 24-40	and/or 0-\$25
13	60-69	6-9 months	and/or 32-48	and/or 0-\$50
14	70-79	6-9 months	and/or 40-56	and/or 0-\$50
15	80-89	9-12 months	and/or 48-64	and/or 10-\$100
16	90-109	9-12 months	and/or 56-72	and/or 10-\$100))
17	<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>

18 A minor/first offender receiving an option A disposition may also be
19 required to post a probation bond.

20 OR

21 OPTION B

22 STATUTORY OPTION

23 0-90 Days Inpatient Substance Abuse Treatment

24 0-12 Months Community Supervision

25 ~~((0-150 Hours Community Service~~

26 ~~0-100 Fine))~~

27 Posting of a Probation Bond

28 ~~((A term of community supervision with a maximum of 150 hours, \$100.00~~
29 ~~fine, and 12 months supervision.))~~

30 OR

31 OPTION C

32 MANIFEST INJUSTICE

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

6 JUVENILE SENTENCING STANDARDS
 7 SCHEDULE D-2

8 This schedule may only be used for middle offenders. After the
 9 determination is made that a youth is a middle offender, the court has
 10 the discretion to select sentencing option A, B, ~~((or))~~ C, or D as
 11 applicable.

12 MIDDLE OFFENDER

13 OPTION A
 14 STANDARD RANGE

15		Community			
16	Community	Service			Confinement
17	Supervision	Hours	Fine		((Days-Weeks))
18	Points	Supervision	Hours	Fine	((Days-Weeks))
19	((1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
21	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
22	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
23	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
24	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
25	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
26	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
27	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
28	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30))
29					<u>(Days)</u>
30	<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
31					<u>(Weeks)</u>

1	110-129	8-12
2	130-149	13-16
3	150-199	21-28
4	200-249	30-40
5	250-299	52-65
6	300-374	80-100
7	375+	103-129

8 Middle offenders with less than 110 points receiving a disposition
9 under option A may also be required to post a probation bond.

10 Middle offenders with less than 110 points do not have to receive a
11 disposition under option A. They may be sent to inpatient substance
12 abuse treatment under option D.

13 Middle offenders with ~~((more than))~~ 110 points or more do not have to
14 be committed to the department. They may be assigned community
15 supervision under option B.

16 All A+ offenses 180-224 weeks

17 OR

18

19 OPTION B

20 STATUTORY OPTION

21 OFFENDERS WITH 110 POINTS OR MORE

22 ~~((0-12 Months Community Supervision~~

23 ~~0-150 Hours Community Service~~

24 ~~0-100 Fine))~~

25 The court may impose ~~((a determinate disposition of community~~
26 ~~supervision and/or up to 30 days confinement; in which case, if~~
27 ~~confinement has been imposed, the court shall state either aggravating~~
28 ~~or mitigating factors as set forth in RCW 13.40.150))~~ an option B
29 disposition as provided in RCW 13.40.160(4)(b) for offenders with 110
30 points or more. As part of an option B disposition, the court may also
31 require posting of a probation bond.

32 OR

33

1 OPTION C
2 MANIFEST INJUSTICE
3 ALL MIDDLE OFFENDERS

4 If the court determines that a disposition under A (~~(or)~~), B, or D as
5 applicable would effectuate a manifest injustice, the court shall
6 sentence the juvenile to a maximum term and the provisions of RCW
7 13.40.030(2) shall be used to determine the range.

8 OPTION D
9 OFFENDERS UNDER 110 POINTS

- 10 0-90 Days Inpatient Substance Abuse Treatment
- 11 0-12 Months Community Supervision
- 12 Posting of a Probation Bond

13 JUVENILE SENTENCING STANDARDS
14 SCHEDULE D-3

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

18 SERIOUS OFFENDER
19 OPTION A
20 STANDARD RANGE

21	Points	Institution Time
22	((0-129 _____ 8-12 weeks	
23	130-149 _____ 13-16 weeks	
24	150-199 _____ 21-28 weeks	
25	200-249)) <u>0-249</u>	30-40 weeks
26	250-299	52-65 weeks
27	300-374	80-100 weeks
28	375+	103-129 weeks
29	All A+	
30	Offenses	180-224 weeks

1 OR

2
3 OPTION B

4 MANIFEST INJUSTICE

5 A disposition outside the standard range shall be determined and shall
6 be comprised of confinement or community supervision including posting
7 of a probation bond or a combination thereof. When a judge finds a
8 manifest injustice and imposes a sentence of confinement exceeding 30
9 days, the court shall sentence the juvenile to a maximum term, and the
10 provisions of RCW 13.40.030(2) shall be used to determine the range.

11 **Sec. 14.** RCW 13.40.0357 and 1994 sp.s. c 7 s 522 are each amended
12 to read as follows:

13 SCHEDULE A

14 DESCRIPTION AND OFFENSE CATEGORY

15			JUVENILE
16	JUVENILE		DISPOSITION
17	DISPOSITION		CATEGORY FOR ATTEMPT,
18	OFFENSE		BAILJUMP, CONSPIRACY,
19	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
20		

21	Arson and Malicious Mischief		
22	A	Arson 1 (9A.48.020)	B+
23	B	Arson 2 (9A.48.030)	C
24	C	Reckless Burning 1 (9A.48.040)	D
25	D	Reckless Burning 2 (9A.48.050)	E
26	B	Malicious Mischief 1 (9A.48.070)	C
27	C	Malicious Mischief 2 (9A.48.080)	D
28	D	Malicious Mischief 3 (<\$50 is	
29		E class) (9A.48.090)	E
30	E	Tampering with Fire Alarm	
31		Apparatus (9.40.100)	E
32	A	Possession of Incendiary Device	
33		(9.40.120)	B+

1		Assault and Other Crimes	
2		Involving Physical Harm	
3	A	Assault 1 (9A.36.011)	B+
4	B+	Assault 2 (9A.36.021)	C+
5	C+	Assault 3 (9A.36.031)	D+
6	D+	Assault 4 (9A.36.041)	E
7	D+	Reckless Endangerment	
8		(9A.36.050)	E
9	C+	Promoting Suicide Attempt	
10		(9A.36.060)	D+
11	D+	Coercion (9A.36.070)	E
12	C+	Custodial Assault (9A.36.100)	D+
13		Burglary and Trespass	
14	B+	Burglary 1 (9A.52.020)	C+
15	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
16	B	Burglary 2 (9A.52.030)	C
17	D	Burglary Tools (Possession of)	
18		(9A.52.060)	E
19	D	Criminal Trespass 1 (9A.52.070)	E
20	E	Criminal Trespass 2 (9A.52.080)	E
21	D	Vehicle Prowling (9A.52.100)	E
22		Drugs	
23	E	Possession/Consumption of Alcohol	
24		(66.44.270)	E
25	C	Illegally Obtaining Legend Drug	
26		(69.41.020)	D
27	C+	Sale, Delivery, Possession of Legend	
28		Drug with Intent to Sell	
29		(69.41.030)	D+
30	E	Possession of Legend Drug	
31		(69.41.030)	E
32	B+	Violation of Uniform Controlled	
33		Substances Act - Narcotic Sale	
34		(69.50.401(a)(1)(i))	B+
35	C	Violation of Uniform Controlled	
36		Substances Act - Nonnarcotic Sale	
37		(69.50.401(a)(1)(ii))	C

1	E	Possession of Marihuana <40 grams	
2		(69.50.401(e))	E
3	C	Fraudulently Obtaining Controlled	
4		Substance (69.50.403)	C
5	C+	Sale of Controlled Substance	
6		for Profit (69.50.410)	C+
7	E	Unlawful Inhalation (9.47A.020)	E
8	B	Violation of Uniform Controlled	
9		Substances Act - Narcotic	
10		Counterfeit Substances	
11		(69.50.401(b)(1)(i))	B
12	C	Violation of Uniform Controlled	
13		Substances Act - Nonnarcotic	
14		Counterfeit Substances	
15		(69.50.401(b)(1) (ii), (iii), (iv))	C
16	C	Violation of Uniform Controlled	
17		Substances Act - Possession of a	
18		Controlled Substance	
19		(69.50.401(d))	C
20	C	Violation of Uniform Controlled	
21		Substances Act - Possession of a	
22		Controlled Substance	
23		(69.50.401(c))	C
24		Firearms and Weapons	
25	E	Carrying Loaded Pistol Without	
26		Permit (9.41.050)	E
27	C	Possession of Firearms by	
28		Minor (<18) (9.41.040(1)(e))	C
29	D+	Possession of Dangerous Weapon	
30		(9.41.250)	E
31	D	Intimidating Another Person by use	
32		of Weapon (9.41.270)	E
33		Homicide	
34	A+	Murder 1 (9A.32.030)	A
35	A+	Murder 2 (9A.32.050)	B+
36	B+	Manslaughter 1 (9A.32.060)	C+
37	C+	Manslaughter 2 (9A.32.070)	D+

1	B+	Vehicular Homicide (46.61.520)	C+
2		Kidnapping	
3	A	Kidnap 1 (9A.40.020)	B+
4	B+	Kidnap 2 (9A.40.030)	C+
5	C+	Unlawful Imprisonment	
6		(9A.40.040)	D+
7		Obstructing Governmental Operation	
8	E	Obstructing a ((Public Servant))	
9		<u>Law Enforcement Officer</u> (9A.76.020)	E
10	E	Resisting Arrest (9A.76.040)	E
11	B	Introducing Contraband 1	
12		(9A.76.140)	C
13	C	Introducing Contraband 2	
14		(9A.76.150)	D
15	E	Introducing Contraband 3	
16		(9A.76.160)	E
17	B+	Intimidating a Public Servant	
18		(9A.76.180)	C+
19	B+	Intimidating a Witness	
20		(9A.72.110)	C+
21		Public Disturbance	
22	C+	Riot with Weapon (9A.84.010)	D+
23	D+	Riot Without Weapon	
24		(9A.84.010)	E
25	E	Failure to Disperse (9A.84.020)	E
26	E	Disorderly Conduct (9A.84.030)	E
27		Sex Crimes	
28	A	Rape 1 (9A.44.040)	B+
29	A-	Rape 2 (9A.44.050)	B+
30	C+	Rape 3 (9A.44.060)	D+
31	A-	Rape of a Child 1 (9A.44.073)	B+
32	B	Rape of a Child 2 (9A.44.076)	C+
33	B	Incest 1 (9A.64.020(1))	C
34	C	Incest 2 (9A.64.020(2))	D

1	D+	Indecent Exposure	
2		(Victim <14) (9A.88.010)	E
3	E	Indecent Exposure	
4		(Victim 14 or over) (9A.88.010)	E
5	B+	Promoting Prostitution 1	
6		(9A.88.070)	C+
7	C+	Promoting Prostitution 2	
8		(9A.88.080)	D+
9	E	O & A (Prostitution) (9A.88.030)	E
10	B+	Indecent Liberties (9A.44.100)	C+
11	B+	Child Molestation 1 (9A.44.083)	C+
12	C+	Child Molestation 2 (9A.44.086)	C
13		Theft, Robbery, Extortion, and Forgery	
14	B	Theft 1 (9A.56.030)	C
15	C	Theft 2 (9A.56.040)	D
16	D	Theft 3 (9A.56.050)	E
17	B	Theft of Livestock (9A.56.080)	C
18	C	Forgery (9A.60.020)	D
19	A	Robbery 1 (9A.56.200)	B+
20	B+	Robbery 2 (9A.56.210)	C+
21	B+	Extortion 1 (9A.56.120)	C+
22	C+	Extortion 2 (9A.56.130)	D+
23	B	Possession of Stolen Property 1	
24		(9A.56.150)	C
25	C	Possession of Stolen Property 2	
26		(9A.56.160)	D
27	D	Possession of Stolen Property 3	
28		(9A.56.170)	E
29	C	Taking Motor Vehicle Without	
30		Owner's Permission (9A.56.070)	D
31		Motor Vehicle Related Crimes	
32	E	Driving Without a License	
33		(46.20.021)	E
34	C	Hit and Run - Injury	
35		(46.52.020(4))	D
36	D	Hit and Run-Attended	
37		(46.52.020(5))	E

1	E	Hit and Run-Unattended	
2		(46.52.010)	E
3	C	Vehicular Assault (46.61.522)	D
4	C	Attempting to Elude Pursuing	
5		Police Vehicle (46.61.024)	D
6	E	Reckless Driving (46.61.500)	E
7	D	Driving While Under the Influence	
8		((46.61.515) <u>46.61.502 or</u>	
9		<u>46.61.504</u>)	E
10	D	Vehicle Prowling (9A.52.100)	E
11	C	Taking Motor Vehicle Without	
12		Owner's Permission (9A.56.070)	D
13		Other	
14	B	Bomb Threat (9.61.160)	C
15	C	Escape 1 (9A.76.110)	C
16	C	Escape 2 (9A.76.120)	C
17	D	Escape 3 (9A.76.130)	E
18	(C	Failure to Appear in Court	
19		(10.19.130)	D))
20	E	Obscene, Harassing, Etc.,	
21		Phone Calls (9.61.230)	E
22	A	Other Offense Equivalent to an	
23		Adult Class A Felony	B+
24	B	Other Offense Equivalent to an	
25		Adult Class B Felony	C
26	C	Other Offense Equivalent to an	
27		Adult Class C Felony	D
28	D	Other Offense Equivalent to an	
29		Adult Gross Misdemeanor	E
30	E	Other Offense Equivalent to an	
31		Adult Misdemeanor	E
32	V	Violation of Order of Restitution,	
33		Community Supervision, or	
34		Confinement ² (13.40.200)	V

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

1 1st escape or attempted escape during 12-month period - 4 weeks
 2 confinement
 3 2nd escape or attempted escape during 12-month period - 8 weeks
 4 confinement
 5 3rd and subsequent escape or attempted escape during 12-month
 6 period - 12 weeks confinement

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

9 SCHEDULE B
 10 PRIOR OFFENSE INCREASE FACTOR

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

13 TIME SPAN

14 OFFENSE	0-12	13-24	25 Months
15 CATEGORY	Months	Months	or More
16			
17 A+	.9	.9	.9
18 A	.9	.8	.6
19 A-	.9	.8	.5
20 B+	.9	.7	.4
21 B	.9	.6	.3
22 C+	.6	.3	.2
23 C	.5	.2	.2
24 D+	.3	.2	.1
25 D	.2	.1	.1
26 E	.1	.1	.1

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

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SCHEDULE C
CURRENT OFFENSE POINTS

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

AGE

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

JUVENILE SENTENCING STANDARDS
SCHEDULE D-1

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

1 MINOR/FIRST OFFENDER

2 OPTION A

3 STANDARD RANGE

4 Community

5 Community

Service

6 Points

Supervision

Hours

Fine

7	((1-9	0-3 months	and/or 0-8	and/or 0-\$10
8	10-19	0-3 months	and/or 0-8	and/or 0-\$10
9	20-29	0-3 months	and/or 0-16	and/or 0-\$10
10	30-39	0-3 months	and/or 8-24	and/or 0-\$25
11	40-49	3-6 months	and/or 16-32	and/or 0-\$25
12	50-59	3-6 months	and/or 24-40	and/or 0-\$25
13	60-69	6-9 months	and/or 32-48	and/or 0-\$50
14	70-79	6-9 months	and/or 40-56	and/or 0-\$50
15	80-89	9-12 months	and/or 48-64	and/or 10-\$100
16	90-109	9-12 months	and/or 56-72	and/or 10-\$100))
17	<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>

18 A minor/first offender receiving an option A disposition may also be
19 required to post a probation bond.

20 OR

21 OPTION B

22 STATUTORY OPTION

23 0-90 Days Inpatient Substance Abuse Treatment

24 0-12 Months Community Supervision

25 ~~((0-150 Hours Community Service~~

26 ~~0-100 Fine))~~

27 Posting of a Probation Bond

28 ~~((A term of community supervision with a maximum of 150 hours, \$100.00~~
29 ~~fine, and 12 months supervision.))~~

30 OR

31 OPTION C

32 MANIFEST INJUSTICE

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

6 JUVENILE SENTENCING STANDARDS
 7 SCHEDULE D-2

8 This schedule may only be used for middle offenders. After the
 9 determination is made that a youth is a middle offender, the court has
 10 the discretion to select sentencing option A, B, ~~((or))~~ C, or D as
 11 applicable.

12 MIDDLE OFFENDER

13 OPTION A
 14 STANDARD RANGE

15	Community			
16	Community	Service	Confinement	
17	Supervision	Hours	Fine	((Days-Weeks))
18			
19	((1-9	0-3 months	and/or 0-8	and/or 0-\$10 and/or 0
20	10-19	0-3 months	and/or 0-8	and/or 0-\$10 and/or 0
21	20-29	0-3 months	and/or 0-16	and/or 0-\$10 and/or 0
22	30-39	0-3 months	and/or 8-24	and/or 0-\$25 and/or 2-4
23	40-49	3-6 months	and/or 16-32	and/or 0-\$25 and/or 2-4
24	50-59	3-6 months	and/or 24-40	and/or 0-\$25 and/or 5-10
25	60-69	6-9 months	and/or 32-48	and/or 0-\$50 and/or 5-10
26	70-79	6-9 months	and/or 40-56	and/or 0-\$50 and/or 10-20
27	80-89	9-12 months	and/or 48-64	and/or 0-\$100 and/or 10-20
28	90-109	9-12 months	and/or 56-72	and/or 0-\$100 and/or 15-30
29	110-129			8-12
30	130-149			13-16
31	150-199			21-28
32	200-249))			

1 (Days)
2 1-109 0-12 months and/or 0-150 and/or 0-\$100 and/or 0-30

3 (Weeks)
4 110-249 30-40
5 250-299 52-65
6 300-374 80-100
7 375+ 103-129

8 Middle offenders with less than 110 points receiving a disposition
9 under option A may also be required to post a probation bond.

10 Middle offenders with less than 110 points do not have to receive a
11 disposition under option A. They may be sent to inpatient substance
12 abuse treatment under option D.

13 Middle offenders with ((more than)) 110 points or more do not have to
14 be committed to the department. They may be assigned community
15 supervision under option B.

16 All A+ offenses 180-224 weeks

17 OR

18

19 OPTION B

20 STATUTORY OPTION

21 OFFENDERS WITH 110 POINTS OR MORE

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

25 ~~The court may impose ((a determinate disposition of community~~
26 ~~supervision and/or up to 30 days confinement; in which case, if~~
27 ~~confinement has been imposed, the court shall state either aggravating~~
28 ~~or mitigating factors as set forth in RCW 13.40.150)) an option B~~
29 disposition as provided in RCW 13.40.160(4)(b) for offenders with 110
30 points or more. As part of an option B disposition, the court may also
31 require posting of a probation bond.

32 OR

33

1 OR

2
3 OPTION B

4 MANIFEST INJUSTICE

5 A disposition outside the standard range shall be determined and shall
6 be comprised of confinement or community supervision including posting
7 of a probation bond or a combination thereof. When a judge finds a
8 manifest injustice and imposes a sentence of confinement exceeding 30
9 days, the court shall sentence the juvenile to a maximum term, and the
10 provisions of RCW 13.40.030(2) shall be used to determine the range.

11 **Sec. 15.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to
12 read as follows:

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

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

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

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

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

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

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

30 (i) The juvenile will likely fail to appear for further
31 proceedings; or

32 (ii) Detention is required to protect the juvenile from himself or
33 herself; or

34 (iii) The juvenile is a threat to community safety; or

35 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
36 interfere with the administration of justice; or

1 (v) The juvenile has committed a crime while another case was
2 pending; or

3 (b) The juvenile is a fugitive from justice; or

4 (c) The juvenile's parole has been suspended or modified; or

5 (d) The juvenile is a material witness.

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

10 (4) A juvenile detained under this section may be released upon
11 posting a probation bond set by the court. The juvenile's parent or
12 guardian may sign for the probation bond. A court authorizing such a
13 release shall issue an order containing a statement of conditions
14 imposed upon the juvenile and shall set the date of his or her next
15 court appearance. The court shall advise the juvenile of any
16 conditions specified in the order and may at any time amend such an
17 order in order to impose additional or different conditions of release
18 upon the juvenile or to return the juvenile to custody for failing to
19 conform to the conditions imposed. In addition to requiring the
20 juvenile to appear at the next court date, the court may condition the
21 probation bond on the juvenile's compliance with conditions of release.
22 The juvenile's parent or guardian may notify the court that the
23 juvenile has failed to conform to the conditions of release or the
24 provisions in the probation bond. If the parent notifies the court of
25 the juvenile's failure to comply with the probation bond, the court
26 shall notify the surety. As provided in the terms of the bond, the
27 surety shall provide notice to the court of the offender's
28 noncompliance. A juvenile shall not be released except to a
29 responsible adult. Failure to appear on the date scheduled by the
30 court pursuant to this section shall constitute the crime of bail
31 jumping.

32 **Sec. 16.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended
33 to read as follows:

34 The secretary, assistant secretary, or the secretary's designee
35 shall issue arrest warrants for juveniles who escape from department
36 residential custody or abscond from parole supervision or fail to meet
37 conditions of parole. These arrest warrants shall authorize any law
38 enforcement, probation and parole, or peace officer of this state, or

1 any other state where the juvenile is located, to arrest the juvenile
2 and to place the juvenile in physical custody pending the juvenile's
3 return to confinement in a state juvenile rehabilitation facility.

4 **Sec. 17.** RCW 13.40.050 and 1992 c 205 s 106 are each amended to
5 read as follows:

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

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

11 (b) A detention hearing, a community supervision modification or
12 termination of diversion petition, or a parole modification petition
13 shall be held within seventy-two hours, Saturdays, Sundays, and
14 holidays excluded, from the time of filing the information or petition,
15 to determine whether continued detention is necessary under RCW
16 13.40.040.

17 (2) Notice of the detention hearing, stating the time, place, and
18 purpose of the hearing, (~~and~~) stating the right to counsel, and
19 requiring attendance, shall be given to the parent, guardian, or
20 custodian if such person can be found and shall also be given to the
21 juvenile if over twelve years of age.

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

25 (4) The court shall, based upon the allegations in the information,
26 determine whether the case is properly before it or whether the case
27 should be treated as a diversion case under RCW 13.40.080. If the case
28 is not properly before the court the juvenile shall be ordered
29 released.

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

35 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
36 ~~hereafter amended,~~) the court shall impose the most appropriate of the
37 following conditions or, if necessary, any combination of the following
38 conditions:

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

3 (b) Place restrictions on the travel of the juvenile during the
4 period of release;

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

7 (d) Impose any condition other than detention deemed reasonably
8 necessary to assure appearance as required; (~~or~~)

9 (e) Require that the juvenile return to detention during specified
10 hours; or

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

13 (7) A juvenile shall not be released except to a responsible adult.

14 (8) If the parent, guardian, or custodian of the juvenile in
15 detention is available, the court shall consult with them prior to a
16 determination to further detain or release the juvenile or treat the
17 case as a diversion case under RCW 13.40.080.

18 (9) If the parent, guardian, or custodian notified as provided in
19 this section fails without reasonable cause to appear, that person may
20 be proceeded against as for contempt of court for failing to appear.

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

23 When a juvenile charged with an offense posts a probation bond or
24 deposits cash or posts other collateral in lieu of a bond, ten dollars
25 of the total amount required to be posted as bail shall be paid in cash
26 as a nonrefundable bail fee. The bail fee shall be distributed to the
27 county for costs associated with implementing chapter . . . , Laws of
28 1995 (this act).

29 **Sec. 19.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
30 as follows:

31 (1) All actions under this chapter shall be commenced and tried in
32 the county where any element of the offense was committed except as
33 otherwise specially provided by statute. In cases in which diversion
34 is provided by statute, venue is in the county in which the juvenile
35 resides or in the county in which any element of the offense was
36 committed.

1 (2) For juveniles whose standard range disposition would include
2 confinement in excess of thirty days, the case and copies of all legal
3 and social documents pertaining thereto may in the discretion of the
4 court be transferred to the county where the juvenile resides for a
5 disposition hearing. All costs and arrangements for care and
6 transportation of the juvenile in custody shall be the responsibility
7 of the receiving county as of the date of the transfer of the juvenile
8 to such county, unless the counties otherwise agree.

9 (3) The case and copies of all legal and social documents
10 pertaining thereto may in the discretion of the court be transferred to
11 the county in which the juvenile resides for supervision and
12 enforcement of the disposition order. The court of the receiving
13 county has jurisdiction to modify and enforce the disposition order.

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

18 **Sec. 20.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended
19 to read as follows:

20 (1) A diversion agreement shall be a contract between a juvenile
21 accused of an offense and a diversionary unit whereby the juvenile
22 agrees to fulfill certain conditions in lieu of prosecution. Such
23 agreements may be entered into only after the prosecutor, or probation
24 counselor pursuant to this chapter, has determined that probable cause
25 exists to believe that a crime has been committed and that the juvenile
26 committed it. Such agreements shall be entered into as expeditiously
27 as possible.

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

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

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

35 (c) Attendance at (~~up to ten hours of~~) counseling and/or (~~up to~~
36 ~~twenty hours of~~) educational or informational sessions at a community
37 agency for a specified period of time as determined by the diversion
38 unit. The educational or informational sessions may include sessions

1 relating to respect for self, others, and authority; victim awareness;
2 accountability; self-worth; responsibility; work ethics; good
3 citizenship; and life skills. For purposes of this section, "community
4 agency" may also mean a community-based nonprofit organization, if
5 approved by the diversion unit. The state shall not be liable for
6 costs resulting from the diversionary unit exercising the option to
7 permit diversion agreements to mandate attendance at ((~~up to ten hours~~
8 ~~of~~)) counseling and/or ((~~up to twenty hours of~~)) educational or
9 informational sessions;

10 (d) A fine, not to exceed one hundred dollars. In determining the
11 amount of the fine, the diversion unit shall consider only the
12 juvenile's financial resources and whether the juvenile has the means
13 to pay the fine. The diversion unit shall not consider the financial
14 resources of the juvenile's parents, guardian, or custodian in
15 determining the fine to be imposed; and

16 (e) Requirements to remain during specified hours at home, school,
17 or work, and restrictions on leaving or entering specified geographical
18 areas.

19 (3) In assessing periods of community service to be performed and
20 restitution to be paid by a juvenile who has entered into a diversion
21 agreement, the court officer to whom this task is assigned shall
22 consult with the juvenile's custodial parent or parents or guardian and
23 victims who have contacted the diversionary unit and, to the extent
24 possible, involve members of the community. Such members of the
25 community shall meet with the juvenile and advise the court officer as
26 to the terms of the diversion agreement and shall supervise the
27 juvenile in carrying out its terms.

28 (4) A diversion agreement may not exceed a period of six months and
29 may include a period extending beyond the eighteenth birthday of the
30 diveree. Any restitution assessed during its term may not exceed an
31 amount which the juvenile could be reasonably expected to pay during
32 this period. If additional time is necessary for the juvenile to
33 complete restitution to the victim, the time period limitations of this
34 subsection may be extended by an additional six months.

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

37 (6) Divertees and potential divertees shall be afforded due process
38 in all contacts with a diversionary unit regardless of whether the
39 juveniles are accepted for diversion or whether the diversion program

1 is successfully completed. Such due process shall include, but not be
2 limited to, the following:

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

5 (b) Violation of the terms of the agreement shall be the only
6 grounds for termination;

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

9 (i) Written notice of alleged violations of the conditions of the
10 diversion program; and

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

12 (d) The hearing shall be conducted by the juvenile court and shall
13 include:

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

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

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

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

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

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

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

26 (7) The diversion unit shall, subject to available funds, be
27 responsible for providing interpreters when juveniles need interpreters
28 to effectively communicate during diversion unit hearings or
29 negotiations.

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

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

34 (10) The right to counsel shall inure prior to the initial
35 interview for purposes of advising the juvenile as to whether he or she
36 desires to participate in the diversion process or to appear in the
37 juvenile court. The juvenile may be represented by counsel at any
38 critical stage of the diversion process, including intake interviews
39 and termination hearings. The juvenile shall be fully advised at the

1 intake of his or her right to an attorney and of the relevant services
2 an attorney can provide. For the purpose of this section, intake
3 interviews mean all interviews regarding the diversion agreement
4 process.

5 The juvenile shall be advised that a diversion agreement shall
6 constitute a part of the juvenile's criminal history as defined by RCW
7 13.40.020(9). A signed acknowledgment of such advisement shall be
8 obtained from the juvenile, and the document shall be maintained by the
9 diversionary unit together with the diversion agreement, and a copy of
10 both documents shall be delivered to the prosecutor if requested by the
11 prosecutor. The supreme court shall promulgate rules setting forth the
12 content of such advisement in simple language.

13 (11) When a juvenile enters into a diversion agreement, the
14 juvenile court may receive only the following information for
15 dispositional purposes:

- 16 (a) The fact that a charge or charges were made;
- 17 (b) The fact that a diversion agreement was entered into;
- 18 (c) The juvenile's obligations under such agreement;
- 19 (d) Whether the alleged offender performed his or her obligations
20 under such agreement; and
- 21 (e) The facts of the alleged offense.

22 (12) A diversionary unit may refuse to enter into a diversion
23 agreement with a juvenile. When a diversionary unit refuses to enter
24 a diversion agreement with a juvenile, it shall immediately refer such
25 juvenile to the court for action and shall forward to the court the
26 criminal complaint and a detailed statement of its reasons for refusing
27 to enter into a diversion agreement. The diversionary unit shall also
28 immediately refer the case to the prosecuting attorney for action if
29 such juvenile violates the terms of the diversion agreement.

30 (13) A diversionary unit may, in instances where it determines that
31 the act or omission of an act for which a juvenile has been referred to
32 it involved no victim, or where it determines that the juvenile
33 referred to it has no prior criminal history and is alleged to have
34 committed an illegal act involving no threat of or instance of actual
35 physical harm and involving not more than fifty dollars in property
36 loss or damage and that there is no loss outstanding to the person or
37 firm suffering such damage or loss, counsel and release or release such
38 a juvenile without entering into a diversion agreement. A diversion
39 unit's authority to counsel and release a juvenile under this

1 subsection shall include the authority to refer the juvenile to
2 community-based counseling or treatment programs. Any juvenile
3 released under this subsection shall be advised that the act or
4 omission of any act for which he or she had been referred shall
5 constitute a part of the juvenile's criminal history as defined by RCW
6 13.40.020(9). A signed acknowledgment of such advisement shall be
7 obtained from the juvenile, and the document shall be maintained by the
8 unit, and a copy of the document shall be delivered to the prosecutor
9 if requested by the prosecutor. The supreme court shall promulgate
10 rules setting forth the content of such advisement in simple language.
11 A juvenile determined to be eligible by a diversionary unit for release
12 as provided in this subsection shall retain the same right to counsel
13 and right to have his or her case referred to the court for formal
14 action as any other juvenile referred to the unit.

15 (14) A diversion unit may supervise the fulfillment of a diversion
16 agreement entered into before the juvenile's eighteenth birthday and
17 which includes a period extending beyond the diverttee's eighteenth
18 birthday.

19 (15) If a fine required by a diversion agreement cannot reasonably
20 be paid due to a change of circumstance, the diversion agreement may be
21 modified at the request of the diverttee and with the concurrence of the
22 diversion unit to convert an unpaid fine into community service. The
23 modification of the diversion agreement shall be in writing and signed
24 by the diverttee and the diversion unit. The number of hours of
25 community service in lieu of a monetary penalty shall be converted at
26 the rate of the prevailing state minimum wage per hour.

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

34 **Sec. 21.** RCW 13.40.125 and 1994 sp.s. c 7 s 545 are each amended
35 to read as follows:

36 (1) Upon motion at least fourteen days before commencement of
37 trial, the juvenile court has the power, after consulting the
38 juvenile's custodial parent or parents or guardian and with the consent

1 of the juvenile, to continue the case for adjudication for a period not
2 to exceed one year from the date (~~of entry of the plea or finding of~~
3 ~~guilt~~) the motion is granted. The court may continue the case for an
4 additional one-year period for good cause.

5 (2) Any juvenile granted a deferral of adjudication under this
6 section shall be placed under community supervision. The court may
7 impose any conditions of supervision that it deems appropriate
8 including posting a probation bond. Payment of restitution, as
9 provided in RCW 13.40.190 shall also be a condition of community
10 supervision under this section.

11 (3) Upon full compliance with (~~such~~) conditions of supervision,
12 the court shall dismiss the case with prejudice.

13 (4) If the juvenile fails to comply with the terms of supervision,
14 the court shall enter an order of adjudication and proceed to
15 disposition. The juvenile's lack of compliance shall be determined by
16 the judge upon written motion by the prosecutor or the juvenile's
17 juvenile court community supervision counselor. A parent who signed
18 for a probation bond may notify the counselor if the juvenile fails to
19 comply with the bond or conditions of supervision. The counselor shall
20 notify the court and surety. A surety shall notify the court of the
21 juvenile's failure to comply with the probation bond. The state shall
22 bear the burden to prove by a preponderance of the evidence that the
23 juvenile has failed to comply with the terms of community supervision.

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

- 26 (a) To a speedy trial and disposition;
27 (b) To call and confront witnesses; and
28 (c) To a hearing on the record. The adjudicatory hearing shall be
29 limited to a reading of the court's record.

30 (6) A juvenile is not eligible for a deferred adjudication if:

- 31 (a) The juvenile's current offense is a sex or violent offense;
32 (b) The juvenile's criminal history includes any felony;
33 (c) The juvenile has a prior deferred adjudication; or
34 (d) The juvenile has had more than two diversions.

35 **Sec. 22.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
36 read as follows:

37 (1) The respondent shall be advised of the allegations in the
38 information and shall be required to plead guilty or not guilty to the

1 allegation(s). The state or the respondent may make preliminary
2 motions up to the time of the plea.

3 (2) If the respondent pleads guilty, the court may proceed with
4 disposition or may continue the case for a dispositional hearing. If
5 the respondent denies guilt, an adjudicatory hearing date shall be set.
6 The court shall notify the parent, guardian, or custodian who has
7 custody of any juvenile described in the charging document of the date,
8 time, and place of the dispositional or adjudicatory hearing, and
9 require attendance.

10 (3) At the adjudicatory hearing it shall be the burden of the
11 prosecution to prove the allegations of the information beyond a
12 reasonable doubt.

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

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

18 (6) If the respondent is found guilty the court may immediately
19 proceed to disposition or may continue the case for a dispositional
20 hearing. Notice of the time and place of the continued hearing may be
21 given in open court. If notice is not given in open court to a party,
22 the party and the parent, guardian, or custodian who has custody of the
23 juvenile shall be notified by mail of the time and place of the
24 continued hearing.

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

28 (8) The disposition hearing shall be held within fourteen days
29 after the adjudicatory hearing or plea of guilty unless good cause is
30 shown for further delay, or within twenty-one days if the juvenile is
31 not held in a detention facility, unless good cause is shown for
32 further delay.

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

35 (10) If the parent, guardian, or custodian notified as provided in
36 this section fails without reasonable cause to appear, that person may
37 be proceeded against as for contempt of court for failing to appear.

1 **Sec. 23.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
2 read as follows:

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

13 (2) For purposes of disposition:

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

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

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

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

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

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

26 (c) Consider any predisposition reports;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (viii) The respondent is a sex offender eligible for the special
32 sex offender disposition alternative under RCW 13.40.160(5) and the
33 court finds that a longer disposition is necessary to provide an
34 incentive to comply with the terms of the disposition.

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

37 (a) The sex of the respondent;

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

1 (c) The creed or religion of the respondent or the respondent's
2 family;

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

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

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

10 **Sec. 24.** RCW 13.40.160 and 1994 sp.s. c 7 s 523 are each amended
11 to read as follows:

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

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

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

32 (2) Where the respondent is found to be a minor or first offender,
33 the court shall order that the respondent serve a term of community
34 supervision as indicated in option A or option B of schedule D-1, RCW
35 13.40.0357 except as provided in subsections (5) and (6) of this
36 section. If the court determines that a disposition of community
37 supervision would effectuate a manifest injustice the court may impose
38 another disposition under option C of schedule D-1, RCW 13.40.0357.

1 Except as provided in subsection (5) of this section, a disposition
2 other than a community supervision may be imposed only after the court
3 enters reasons upon which it bases its conclusions that imposition of
4 community supervision would effectuate a manifest injustice. When a
5 judge finds a manifest injustice and imposes a sentence of confinement
6 exceeding thirty days, the court shall sentence the juvenile to a
7 maximum term, and the provisions of RCW 13.40.030(2) shall be used to
8 determine the range. The court's finding of manifest injustice shall
9 be supported by clear and convincing evidence.

10 Except for disposition of community supervision or a disposition
11 imposed pursuant to subsection (5) of this section, a disposition may
12 be appealed as provided in RCW 13.40.230 by the state or the
13 respondent. A disposition of community supervision or a disposition
14 imposed pursuant to subsection (5) of this section may not be appealed
15 under RCW 13.40.230.

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

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

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

28 (b) If the middle offender has less than 110 points, the court
29 shall impose ((a disposition under (a) of this subsection, which shall
30 be suspended, and shall impose)) a determinate disposition of community
31 supervision and/or up to ((thirty)) ninety days ((confinement))
32 inpatient substance abuse treatment, as indicated in option ((B)) D of
33 schedule D-2, RCW 13.40.0357 ((in which case, if confinement has been
34 imposed, the court shall state either aggravating or mitigating factors
35 as set forth in RCW 13.40.150)).

36 If the middle offender has 110 points or more, the court may impose
37 a disposition under option A and may suspend the disposition on the
38 condition that the offender serve up to thirty days of confinement and
39 follow all conditions of community supervision. If the offender

1 violates any condition of the disposition, including conditions of a
2 probation bond, the court may impose sanctions pursuant to RCW
3 13.40.200 or may revoke the suspension and order execution of the
4 ~~((sentence))~~ disposition. The court shall give credit for any
5 confinement time previously served if that confinement was for the
6 offense for which the suspension is being revoked.

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) shall be used to determine the range. The court's finding
12 of manifest injustice shall be supported by clear and convincing
13 evidence.

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

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

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

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

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

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

37 (ii) Specific issues to be addressed in the treatment and
38 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))~~ or if the court concludes, and enters reasons
20 for its conclusion, that such disposition would effectuate a manifest
21 injustice, the court shall impose a disposition pursuant to option C of
22 schedule D-1, option C of schedule D-2, or option B of schedule D-3 as
23 appropriate.

24 For either a standard range disposition or a manifest injustice
25 disposition the court may suspend the execution of the disposition and
26 place the offender on community supervision for up to ~~((two))~~ three
27 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 If the offender violates any condition of the disposition or the
2 court finds that the respondent is failing to make satisfactory
3 progress in treatment, the court may revoke the suspension and order
4 execution of the disposition or the court may impose a penalty of up to
5 thirty days' confinement for violating conditions of the disposition.
6 The court may order both execution of the disposition and up to thirty
7 days' confinement for the violation of the conditions of the
8 disposition. The court shall give credit for any confinement time
9 previously served if that confinement was for the offense for which the
10 suspension is being revoked.

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

16 (6) RCW 13.40.193 shall govern the disposition of any juvenile
17 adjudicated of possessing a firearm in violation of RCW 9.41.040(1)(e)
18 or any crime in which a special finding is entered that the juvenile
19 was armed with a firearm.

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

24 (8) Except as provided for in subsection (4)(b) or (5) of this
25 section or RCW 13.40.125, the court shall not suspend or defer the
26 imposition or the execution of the disposition.

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

30 **Sec. 25.** RCW 13.40.185 and 1994 sp.s. c 7 s 524 are each amended
31 to read as follows:

32 (1) Any term of confinement imposed for an offense which exceeds
33 thirty days except under option B of schedule D-1 or option D of
34 schedule D-2 shall be served under the supervision of the department.
35 If the period of confinement imposed for more than one offense exceeds
36 thirty days but the term imposed for each offense is less than thirty
37 days, the confinement may, in the discretion of the court, be served in

1 a juvenile facility operated by or pursuant to a contract with the
2 state or a county.

3 (2) Whenever a juvenile is confined in a detention facility or is
4 committed to the department, the court may not directly order a
5 juvenile into a particular county or state facility. The juvenile
6 court administrator and the secretary, assistant secretary, or the
7 secretary's designee, as appropriate, has the sole discretion to
8 determine in which facility a juvenile should be confined or committed.
9 The counties may operate a variety of detention facilities as
10 determined by the county legislative authority subject to available
11 funds.

12 (3) Any commitment for inpatient substance abuse treatment under
13 option B of schedule D-1 or option D of schedule D-2 shall be under the
14 supervision of and paid by the county.

15 **Sec. 26.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to read
16 as follows:

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

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

33 (3)(a) If the court finds that a respondent has willfully violated
34 the terms of an order pursuant to subsections (1) and (2) of this
35 section, it may impose a penalty of up to thirty days' confinement.
36 Penalties for multiple violations occurring prior to the hearing shall
37 not be aggregated to exceed thirty days' confinement. Regardless of
38 the number of times a respondent is brought to court for violations of

1 the terms of a single disposition order, the combined total number of
2 days spent by the respondent in detention shall never exceed the
3 maximum term to which an adult could be sentenced for the underlying
4 offense.

5 (b) If the violation of the terms of the order under (a) of this
6 subsection is failure to pay fines, penalty assessments, complete
7 community service, or make restitution, the term of confinement imposed
8 under (a) of this subsection shall be assessed at a rate of one day of
9 confinement for each twenty-five dollars or eight hours owed.

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

21 (5) When a respondent has willfully violated the terms of a
22 probation bond, the court may modify, revoke, or retain the probation
23 bond as provided in section 5 of this act.

24 **Sec. 27.** RCW 13.40.210 and 1994 sp.s. c 7 s 527 are each amended
25 to read as follows:

26 ~~(1) ((The secretary shall, except in the case of a juvenile~~
27 ~~committed by a court to a term of confinement in a state institution~~
28 ~~outside the appropriate standard range for the offense(s) for which the~~
29 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~
30 ~~set a release or discharge date for each juvenile committed to its~~
31 ~~custody. The release or discharge date shall be within the prescribed~~
32 ~~range to which a juvenile has been committed except as provided in RCW~~
33 ~~13.40.320 concerning offenders the department determines are eligible~~
34 ~~for the juvenile offender basic training camp program. Such dates~~
35 ~~shall be determined prior to the expiration of sixty percent of a~~
36 ~~juvenile's minimum term of confinement included within the prescribed~~
37 ~~range to which the juvenile has been committed.)) (a) After expiration~~
38 ~~of no more than sixty percent of the juvenile's minimum term, the~~

1 department shall provide a report containing an evaluation of the
2 juvenile's behavior and performance during confinement. The department
3 shall provide this report to the committing court. The court, after
4 considering the department's report, shall determine a release or
5 discharge date for the juvenile, which date shall fall on or before
6 expiration of the maximum term of confinement but not sooner than the
7 minimum term of confinement. If a substantial change in the juvenile's
8 behavior occurs after the setting of the release or discharge date, the
9 department may submit an updated report to the committing court. The
10 committing court may change the release or discharge date based upon
11 the updated report. Nothing in this subsection requires the court to
12 hold a hearing in setting the release or discharge date.

13 (b) Nothing in this section entitles a juvenile to release prior to
14 the expiration of the maximum term of confinement imposed by the court.

15 (c) After the court determines a release date, the court shall
16 notify the secretary by mail, and the secretary shall release any
17 juvenile committed to the custody of the department within four
18 calendar days prior to the juvenile's release date or on the release
19 date set under this chapter. Days spent in the custody of the
20 department shall be tolled by any period of time during which a
21 juvenile has absented himself or herself from the department's
22 supervision without the prior approval of the secretary or the
23 secretary's designee.

24 (2) The secretary shall monitor the average daily population of the
25 state's juvenile residential facilities. When the secretary concludes
26 that in-residence population of residential facilities exceeds one
27 hundred five percent of the rated bed capacity specified in statute, or
28 in absence of such specification, as specified by the department in
29 rule, the secretary may recommend reductions to the governor. On
30 certification by the governor that the recommended reductions are
31 necessary, the secretary has authority to administratively release a
32 sufficient number of offenders to reduce in-residence population to one
33 hundred percent of rated bed capacity. The secretary shall release
34 those offenders who have served the greatest proportion of their
35 sentence. However, the secretary may deny release in a particular case
36 at the request of an offender, or if the secretary finds that there is
37 no responsible custodian, as determined by the department, to whom to
38 release the offender, or if the release of the offender would pose a
39 clear danger to society. The department shall notify the committing

1 court of the release at the time of release if any such early releases
2 have occurred as a result of excessive in-residence population. In no
3 event shall an offender adjudicated of a violent offense be granted
4 release under the provisions of this subsection.

5 (3) Following the juvenile's release under subsection (1) of this
6 section, the secretary may require the juvenile to comply with a
7 program of parole to be administered by the department in his or her
8 community which shall last no longer than eighteen months, except that
9 in the case of a juvenile sentenced for rape in the first or second
10 degree, rape of a child in the first or second degree, child
11 molestation in the first degree, or indecent liberties with forcible
12 compulsion, the period of parole shall be twenty-four months. A parole
13 program is mandatory for offenders released under subsection (2) of
14 this section. The secretary shall, for the period of parole,
15 facilitate the juvenile's reintegration into his or her community and
16 to further this goal shall require the juvenile to refrain from
17 possessing a firearm or using a deadly weapon and refrain from
18 committing new offenses and may require the juvenile to: (a) Undergo
19 available medical or psychiatric treatment; (b) report as directed to
20 a parole officer or designee; (c) pursue a course of study or
21 vocational training; and (d) remain within prescribed geographical
22 boundaries and notify the department of any change in his or her
23 address. After termination of the parole period, the juvenile shall be
24 discharged from the department's supervision.

25 (4)(a) The department may also modify parole for violation thereof.
26 If, after affording a juvenile all of the due process rights to which
27 he or she would be entitled if the juvenile were an adult, the
28 secretary finds that a juvenile has violated a condition of his or her
29 parole, the secretary shall order one of the following which is
30 reasonably likely to effectuate the purpose of the parole and to
31 protect the public: (i) Continued supervision under the same
32 conditions previously imposed; (ii) intensified supervision with
33 increased reporting requirements; (iii) additional conditions of
34 supervision authorized by this chapter; (iv) except as provided in
35 (a)(v) of this subsection, imposition of a period of confinement not to
36 exceed thirty days in a facility operated by or pursuant to a contract
37 with the state of Washington or any city or county for a portion of
38 each day or for a certain number of days each week with the balance of
39 the days or weeks spent under supervision; and (v) the secretary may

1 order any of the conditions or may return the offender to confinement
2 (~~in an institution~~) for the remainder of the sentence range if the
3 offense for which the offender was sentenced is rape in the first or
4 second degree, rape of a child in the first or second degree, child
5 molestation in the first degree, indecent liberties with forcible
6 compulsion, or a sex offense that is also a serious violent offense as
7 defined by RCW 9.94A.030.

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

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

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

21 **Sec. 28.** RCW 13.40.320 and 1994 sp.s. c 7 s 532 are each amended
22 to read as follows:

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

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

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

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

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

18 (5) Offenders eligible for the juvenile offender basic training
19 camp option shall be those with a disposition of (~~at least fifty-two~~
20 ~~weeks but~~) not more than seventy-eight weeks. Violent and sex
21 offenders and offenders previously placed in the juvenile offender
22 basic training camp program shall not be eligible for the juvenile
23 offender basic training camp program.

24 (6) If the court determines that the offender is eligible for the
25 juvenile offender basic training camp option, the court may recommend
26 that the department place the offender in the program. The department
27 shall evaluate the offender and may place the offender in the program.
28 No juvenile who suffers from any mental or physical problems that could
29 endanger his or her health or drastically affect his or her performance
30 in the program shall be admitted to or retained in the juvenile
31 offender basic training camp program.

32 (7) All juvenile offenders eligible for the juvenile offender basic
33 training camp sentencing option shall spend (~~the first~~) one hundred
34 twenty days of their disposition in a juvenile offender basic training
35 camp. If the juvenile offender's activities while in the juvenile
36 offender basic training camp are so disruptive to the juvenile offender
37 basic training camp program, as determined by the secretary according
38 to rules adopted by the department, as to result in the removal of the
39 juvenile offender from the juvenile offender basic training camp

1 program, or if the offender cannot complete the juvenile offender basic
2 training camp program due to medical problems, the secretary shall
3 require that the offender be committed to a juvenile institution to
4 serve the entire remainder of his or her disposition, less the amount
5 of time already served in the juvenile offender basic training camp
6 program.

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

20 (9) The department shall also develop and maintain a data base to
21 measure recidivism rates specific to this incarceration program. The
22 data base shall maintain data on all juvenile offenders who complete
23 the juvenile offender basic training camp program for a period of two
24 years after they have completed the program. The data base shall also
25 maintain data on the criminal activity, educational progress, and
26 employment activities of all juvenile offenders who participated in the
27 program. The department shall produce an outcome evaluation report on
28 the progress of the juvenile offender basic training camp program to
29 the appropriate committees of the legislature no later than December
30 12, 1996.

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

33 RECOMMENDED PROSECUTING STANDARDS
34 FOR CHARGING AND PLEA DISPOSITIONS

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

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

3 Evidentiary sufficiency. (1) Decision not to prosecute.

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

11 GUIDELINES/COMMENTARY:

12 Examples

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 Notification

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

8 (2) Decision to prosecute.

9 STANDARD:

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

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

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

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

29 Selection of Charges/Degree of Charge

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

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

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

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

37 Overcharging includes:

38 (a) Charging a higher degree;

39 (b) Charging additional counts.

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

7 The selection of charges and/or the degree of the charge shall not
8 be influenced by the race, gender, religion, or creed of the
9 respondent.

10 GUIDELINES/COMMENTARY:

11 Police Investigation

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

18 (1) The interviewing of all material witnesses, together with the
19 obtaining of written statements whenever possible;

20 (2) The completion of necessary laboratory tests; and

21 (3) The obtaining, in accordance with constitutional requirements,
22 of the suspect's version of the events.

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

26 Exceptions

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

29 (1) Probable cause exists to believe the suspect is guilty; and

30 (2) The suspect presents a danger to the community or is likely to
31 flee if not apprehended; or

32 (3) The arrest of the suspect is necessary to complete the
33 investigation of the crime.

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

39 Investigation Techniques

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

- 3 (1) Polygraph testing;
- 4 (2) Hypnosis;
- 5 (3) Electronic surveillance;
- 6 (4) Use of informants.

7 Prefiling Discussions with Defendant

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

11 PLEA DISPOSITIONS:

12 Standard

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

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

21 (a) Evidentiary problems which make conviction of the original
22 charges doubtful;

23 (b) The respondent's willingness to cooperate in the investigation
24 or prosecution of others whose criminal conduct is more serious or
25 represents a greater public threat;

26 (c) A request by the victim when it is not the result of pressure
27 from the respondent;

28 (d) The discovery of facts which mitigate the seriousness of the
29 respondent's conduct;

30 (e) The correction of errors in the initial charging decision;

31 (f) The respondent's history with respect to criminal activity;

32 (g) The nature and seriousness of the offense or offenses charged;

33 (h) The probable effect of witnesses.

34 (3) No plea agreement shall be influenced by the race, gender,
35 religion, or creed of the respondent. This includes but is not limited
36 to the prosecutor's decision to utilize such disposition alternatives
37 as "Option B," the Special Sex Offender Disposition Alternative, and
38 manifest injustice.

39 DISPOSITION RECOMMENDATIONS:

1 Standard

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

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

6 NEW SECTION. **Sec. 30.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 31.** The amendments to RCW 13.40.0357 contained
11 in section 12 of this act shall expire July 1, 1996, and shall not
12 apply to offenses committed on or after July 1, 1996.

13 NEW SECTION. **Sec. 32.** Section 13 of this act shall take effect
14 July 1, 1996, and shall apply to offenses committed on or after July 1,
15 1996.

16 NEW SECTION. **Sec. 33.** The amendments to RCW 13.40.0357 contained
17 in section 13 of this act shall expire July 1, 1998, and shall not
18 apply to offenses committed on or after July 1, 1998.

19 NEW SECTION. **Sec. 34.** Section 14 of this act shall take effect
20 July 1, 1998, and shall apply to offenses committed on or after July 1,
21 1998.

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