
SUBSTITUTE HOUSE BILL 2219

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Foreman, Sheahan, Ballasiotes, Schoesler, Pennington, Mastin, Chandler, Delvin, Robertson, Campbell, Huff, Hickel, Thompson, Blanton, McMahan, Hargrove and Stevens)

Read first time 01/18/96.

1 AN ACT Relating to offenders; amending RCW 5.60.060, 9.94A.040,
2 9.94A.060, 9.94A.390, 13.40.010, 13.40.025, 13.40.027, 13.40.030,
3 13.40.0357, 13.40.045, 13.40.050, 13.40.060, 13.40.080, 13.40.110,
4 13.40.130, 13.40.150, 13.40.160, 13.50.010, 13.50.050, 35.20.030,
5 72.01.410, and 72.09.300; amending 1995 c 269 s 3603 (uncodified);
6 reenacting and amending RCW 9.94A.030, 9.94A.320, 9.94A.360, 13.04.030,
7 and 13.40.020; adding a new section to chapter 13.04 RCW; adding new
8 sections to chapter 13.40 RCW; adding a new section to chapter 28A.175
9 RCW; adding a new section to chapter 28A.225 RCW; creating new
10 sections; prescribing penalties; providing effective dates; providing
11 an expiration date; and declaring an emergency.

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

13 **Sec. 1.** RCW 5.60.060 and 1995 c 240 s 1 are each amended to read
14 as follows:

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

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

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

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

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

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

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

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

1 (5) A public officer shall not be examined as a witness as to
2 communications made to him or her in official confidence, when the
3 public interest would suffer by the disclosure.

4 (6)(a) A peer support group counselor shall not, without consent of
5 the law enforcement officer making the communication, be compelled to
6 testify about any communication made to the counselor by the officer
7 while receiving counseling. The counselor must be designated as such
8 by the sheriff, police chief, or chief of the Washington state patrol,
9 prior to the incident that results in counseling. The privilege only
10 applies when the communication was made to the counselor while acting
11 in his or her capacity as a peer support group counselor. The
12 privilege does not apply if the counselor was an initial responding
13 officer, a witness, or a party to the incident which prompted the
14 delivery of peer support group counseling services to the law
15 enforcement officer.

16 (b) For purposes of this section, "peer support group counselor"
17 means a:

18 (i) Law enforcement officer, or civilian employee of a law
19 enforcement agency, who has received training to provide emotional and
20 moral support and counseling to an officer who needs those services as
21 a result of an incident in which the officer was involved while acting
22 in his or her official capacity; or

23 (ii) Nonemployee counselor who has been designated by the sheriff,
24 police chief, or chief of the Washington state patrol to provide
25 emotional and moral support and counseling to an officer who needs
26 those services as a result of an incident in which the officer was
27 involved while acting in his or her official capacity.

28 **Sec. 2.** RCW 9.94A.030 and 1995 c 268 s 2, 1995 c 108 s 1, and 1995
29 c 101 s 2 are each reenacted and amended to read as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

32 (1) "Collect," or any derivative thereof, "collect and remit," or
33 "collect and deliver," when used with reference to the department of
34 corrections, means that the department is responsible for monitoring
35 and enforcing the offender's sentence with regard to the legal
36 financial obligation, receiving payment thereof from the offender, and,
37 consistent with current law, delivering daily the entire payment to the
38 superior court clerk without depositing it in a departmental account.

1 (2) "Commission" means the sentencing guidelines commission.

2 (3) "Community corrections officer" means an employee of the
3 department who is responsible for carrying out specific duties in
4 supervision of sentenced offenders and monitoring of sentence
5 conditions.

6 (4) "Community custody" means that portion of an inmate's sentence
7 of confinement in lieu of earned early release time or imposed pursuant
8 to RCW 9.94A.120(6) served in the community subject to controls placed
9 on the inmate's movement and activities by the department of
10 corrections.

11 (5) "Community placement" means that period during which the
12 offender is subject to the conditions of community custody and/or
13 postrelease supervision, which begins either upon completion of the
14 term of confinement (postrelease supervision) or at such time as the
15 offender is transferred to community custody in lieu of earned early
16 release. Community placement may consist of entirely community
17 custody, entirely postrelease supervision, or a combination of the two.

18 (6) "Community service" means compulsory service, without
19 compensation, performed for the benefit of the community by the
20 offender.

21 (7) "Community supervision" means a period of time during which a
22 convicted offender is subject to crime-related prohibitions and other
23 sentence conditions imposed by a court pursuant to this chapter or RCW
24 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
25 may include crime-related prohibitions and other conditions imposed
26 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
27 for out-of-state supervision of parolees and probationers, RCW
28 9.95.270, community supervision is the functional equivalent of
29 probation and should be considered the same as probation by other
30 states.

31 (8) "Confinement" means total or partial confinement as defined in
32 this section.

33 (9) "Conviction" means an adjudication of guilt pursuant to Titles
34 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
35 acceptance of a plea of guilty.

36 (10) "Court-ordered legal financial obligation" means a sum of
37 money that is ordered by a superior court of the state of Washington
38 for legal financial obligations which may include restitution to the
39 victim, statutorily imposed crime victims' compensation fees as

1 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
2 drug funds, court-appointed attorneys' fees, and costs of defense,
3 fines, and any other financial obligation that is assessed to the
4 offender as a result of a felony conviction. Upon conviction for
5 vehicular assault while under the influence of intoxicating liquor or
6 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
7 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
8 legal financial obligations may also include payment to a public agency
9 of the expense of an emergency response to the incident resulting in
10 the conviction, subject to the provisions in RCW 38.52.430.

11 (11) "Crime-related prohibition" means an order of a court
12 prohibiting conduct that directly relates to the circumstances of the
13 crime for which the offender has been convicted, and shall not be
14 construed to mean orders directing an offender affirmatively to
15 participate in rehabilitative programs or to otherwise perform
16 affirmative conduct.

17 (12)(a) "Criminal history" means the list of a defendant's prior
18 convictions, whether in this state, in federal court, or elsewhere.
19 The history shall include, where known, for each conviction (i) whether
20 the defendant has been placed on probation and the length and terms
21 thereof; and (ii) whether the defendant has been incarcerated and the
22 length of incarceration.

23 (b) "Criminal history" shall always include juvenile convictions
24 for sex offenses and (~~serious~~) violent offenses and shall also
25 include a defendant's other prior convictions in juvenile court if:
26 (i) The conviction was for an offense which is a felony or a serious
27 traffic offense and is criminal history as defined in RCW 13.40.020(9);
28 (ii) the defendant was fifteen years of age or older at the time the
29 offense was committed; and (iii) with respect to prior juvenile class
30 B and C felonies or serious traffic offenses, the defendant was less
31 than twenty-three years of age at the time the offense for which he or
32 she is being sentenced was committed.

33 (13) "Day fine" means a fine imposed by the sentencing judge that
34 equals the difference between the offender's net daily income and the
35 reasonable obligations that the offender has for the support of the
36 offender and any dependents.

37 (14) "Day reporting" means a program of enhanced supervision
38 designed to monitor the defendant's daily activities and compliance
39 with sentence conditions, and in which the defendant is required to

1 report daily to a specific location designated by the department or the
2 sentencing judge.

3 (15) "Department" means the department of corrections.

4 (16) "Determinate sentence" means a sentence that states with
5 exactitude the number of actual years, months, or days of total
6 confinement, of partial confinement, of community supervision, the
7 number of actual hours or days of community service work, or dollars or
8 terms of a legal financial obligation. The fact that an offender
9 through "earned early release" can reduce the actual period of
10 confinement shall not affect the classification of the sentence as a
11 determinate sentence.

12 (17) "Disposable earnings" means that part of the earnings of an
13 individual remaining after the deduction from those earnings of any
14 amount required by law to be withheld. For the purposes of this
15 definition, "earnings" means compensation paid or payable for personal
16 services, whether denominated as wages, salary, commission, bonuses, or
17 otherwise, and, notwithstanding any other provision of law making the
18 payments exempt from garnishment, attachment, or other process to
19 satisfy a court-ordered legal financial obligation, specifically
20 includes periodic payments pursuant to pension or retirement programs,
21 or insurance policies of any type, but does not include payments made
22 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
23 or Title 74 RCW.

24 (18) "Drug offense" means:

25 (a) Any felony violation of chapter 69.50 RCW except possession of
26 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
27 controlled substance (RCW 69.50.403);

28 (b) Any offense defined as a felony under federal law that relates
29 to the possession, manufacture, distribution, or transportation of a
30 controlled substance; or

31 (c) Any out-of-state conviction for an offense that under the laws
32 of this state would be a felony classified as a drug offense under (a)
33 of this subsection.

34 (19) "Escape" means:

35 (a) Escape in the first degree (RCW 9A.76.110), escape in the
36 second degree (RCW 9A.76.120), willful failure to return from furlough
37 (RCW 72.66.060), willful failure to return from work release (RCW
38 72.65.070), or willful failure to be available for supervision by the
39 department while in community custody (RCW 72.09.310); or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as an escape
3 under (a) of this subsection.

4 (20) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
6 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
7 and-run injury-accident (RCW 46.52.020(4)); or

8 (b) Any federal or out-of-state conviction for an offense that
9 under the laws of this state would be a felony classified as a felony
10 traffic offense under (a) of this subsection.

11 (21) "Fines" means the requirement that the offender pay a specific
12 sum of money over a specific period of time to the court.

13 (22)(a) "First-time offender" means any person who is convicted of
14 a felony (i) not classified as a violent offense or a sex offense under
15 this chapter, or (ii) that is not the manufacture, delivery, or
16 possession with intent to manufacture or deliver a controlled substance
17 classified in schedule I or II that is a narcotic drug, nor the
18 manufacture, delivery, or possession with intent to deliver
19 methamphetamine, its salts, isomers, and salts of its isomers as
20 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
21 controlled substance or counterfeit substance classified in schedule I,
22 RCW 69.50.204, except leaves and flowering tops of marihuana, and
23 except as provided in (b) of this subsection, who previously has never
24 been convicted of a felony in this state, federal court, or another
25 state, and who has never participated in a program of deferred
26 prosecution for a felony offense.

27 (b) For purposes of (a) of this subsection, a juvenile adjudication
28 for an offense committed before the age of fifteen years is not a
29 previous felony conviction except for adjudications of sex offenses and
30 serious violent offenses.

31 (23) "Most serious offense" means any of the following felonies or
32 a felony attempt to commit any of the following felonies, as now
33 existing or hereafter amended:

34 (a) Any felony defined under any law as a class A felony or
35 criminal solicitation of or criminal conspiracy to commit a class A
36 felony;

37 (b) Assault in the second degree;

38 (c) Assault of a child in the second degree;

39 (d) Child molestation in the second degree;

- 1 (e) Controlled substance homicide;
- 2 (f) Extortion in the first degree;
- 3 (g) Incest when committed against a child under age fourteen;
- 4 (h) Indecent liberties;
- 5 (i) Kidnapping in the second degree;
- 6 (j) Leading organized crime;
- 7 (k) Manslaughter in the first degree;
- 8 (l) Manslaughter in the second degree;
- 9 (m) Promoting prostitution in the first degree;
- 10 (n) Rape in the third degree;
- 11 (o) Robbery in the second degree;
- 12 (p) Sexual exploitation;
- 13 (q) Vehicular assault;
- 14 (r) Vehicular homicide, when proximately caused by the driving of
- 15 any vehicle by any person while under the influence of intoxicating
- 16 liquor or any drug as defined by RCW 46.61.502, or by the operation of
- 17 any vehicle in a reckless manner;
- 18 (s) Any other class B felony offense with a finding of sexual
- 19 motivation, as "sexual motivation" is defined under this section;
- 20 (t) Any other felony with a deadly weapon verdict under RCW
- 21 9.94A.125;
- 22 (u) Any felony offense in effect at any time prior to December 2,
- 23 1993, that is comparable to a most serious offense under this
- 24 subsection, or any federal or out-of-state conviction for an offense
- 25 that under the laws of this state would be a felony classified as a
- 26 most serious offense under this subsection.
- 27 (24) "Nonviolent offense" means an offense which is not a violent
- 28 offense.
- 29 (25) "Offender" means a person who has committed a felony
- 30 established by state law and is eighteen years of age or older ((or)).
- 31 "Offender also means a person who is less than eighteen years of age
- 32 but whose case has been transferred by the appropriate juvenile court
- 33 to a criminal court pursuant to RCW 13.40.110 or who is under adult
- 34 criminal court jurisdiction pursuant to RCW 13.04.030. Throughout this
- 35 chapter, the terms "offender" and "defendant" are used interchangeably.
- 36 (26) "Partial confinement" means confinement for no more than one
- 37 year in a facility or institution operated or utilized under contract
- 38 by the state or any other unit of government, or, if home detention or
- 39 work crew has been ordered by the court, in an approved residence, for

1 a substantial portion of each day with the balance of the day spent in
2 the community. Partial confinement includes work release, home
3 detention, work crew, and a combination of work crew and home detention
4 as defined in this section.

5 (27) "Persistent offender" is an offender who:

6 (a) Has been convicted in this state of any felony considered a
7 most serious offense; and

8 (b) Has, before the commission of the offense under (a) of this
9 subsection, been convicted as an offender on at least two separate
10 occasions, whether in this state or elsewhere, of felonies that under
11 the laws of this state would be considered most serious offenses and
12 would be included in the offender score under RCW 9.94A.360; provided
13 that of the two or more previous convictions, at least one conviction
14 must have occurred before the commission of any of the other most
15 serious offenses for which the offender was previously convicted.

16 (28) "Postrelease supervision" is that portion of an offender's
17 community placement that is not community custody.

18 (29) "Restitution" means the requirement that the offender pay a
19 specific sum of money over a specific period of time to the court as
20 payment of damages. The sum may include both public and private costs.
21 The imposition of a restitution order does not preclude civil redress.

22 (30) "Serious traffic offense" means:

23 (a) Driving while under the influence of intoxicating liquor or any
24 drug (RCW 46.61.502), actual physical control while under the influence
25 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
26 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
27 or

28 (b) Any federal, out-of-state, county, or municipal conviction for
29 an offense that under the laws of this state would be classified as a
30 serious traffic offense under (a) of this subsection.

31 (31) "Serious violent offense" is a subcategory of violent offense
32 and means:

33 (a) Murder in the first degree, homicide by abuse, murder in the
34 second degree, assault in the first degree, kidnapping in the first
35 degree, or rape in the first degree, assault of a child in the first
36 degree, or an attempt, criminal solicitation, or criminal conspiracy to
37 commit one of these felonies; or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a serious
3 violent offense under (a) of this subsection.

4 (32) "Sentence range" means the sentencing court's discretionary
5 range in imposing a nonappealable sentence.

6 (33) "Sex offense" means:

7 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
8 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
9 criminal attempt, criminal solicitation, or criminal conspiracy to
10 commit such crimes;

11 (b) A felony with a finding of sexual motivation under RCW
12 9.94A.127 or 13.40.135; or

13 (c) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a sex
15 offense under (a) of this subsection.

16 (34) "Sexual motivation" means that one of the purposes for which
17 the defendant committed the crime was for the purpose of his or her
18 sexual gratification.

19 (35) "Total confinement" means confinement inside the physical
20 boundaries of a facility or institution operated or utilized under
21 contract by the state or any other unit of government for twenty-four
22 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

23 (36) "Transition training" means written and verbal instructions
24 and assistance provided by the department to the offender during the
25 two weeks prior to the offender's successful completion of the work
26 ethic camp program. The transition training shall include instructions
27 in the offender's requirements and obligations during the offender's
28 period of community custody.

29 (37) "Victim" means any person who has sustained emotional,
30 psychological, physical, or financial injury to person or property as
31 a direct result of the crime charged.

32 (38) "Violent offense" means:

33 (a) Any of the following felonies, as now existing or hereafter
34 amended: Any felony defined under any law as a class A felony or an
35 attempt to commit a class A felony, criminal solicitation of or
36 criminal conspiracy to commit a class A felony, manslaughter in the
37 first degree, manslaughter in the second degree, indecent liberties if
38 committed by forcible compulsion, kidnapping in the second degree,
39 arson in the second degree, assault in the second degree, assault of a

1 child in the second degree, extortion in the first degree, robbery in
2 the second degree, vehicular assault, and vehicular homicide, when
3 proximately caused by the driving of any vehicle by any person while
4 under the influence of intoxicating liquor or any drug as defined by
5 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

6 (b) Any conviction for a felony offense in effect at any time prior
7 to July 1, 1976, that is comparable to a felony classified as a violent
8 offense in (a) of this subsection; and

9 (c) Any federal or out-of-state conviction for an offense that
10 under the laws of this state would be a felony classified as a violent
11 offense under (a) or (b) of this subsection.

12 (39) "Work crew" means a program of partial confinement consisting
13 of civic improvement tasks for the benefit of the community of not less
14 than thirty-five hours per week that complies with RCW 9.94A.135. The
15 civic improvement tasks shall have minimal negative impact on existing
16 private industries or the labor force in the county where the service
17 or labor is performed. The civic improvement tasks shall not affect
18 employment opportunities for people with developmental disabilities
19 contracted through sheltered workshops as defined in RCW 82.04.385.
20 Only those offenders sentenced to a facility operated or utilized under
21 contract by a county or the state are eligible to participate on a work
22 crew. Offenders sentenced for a sex offense as defined in subsection
23 (33) of this section are not eligible for the work crew program.

24 (40) "Work ethic camp" means an alternative incarceration program
25 designed to reduce recidivism and lower the cost of corrections by
26 requiring offenders to complete a comprehensive array of real-world job
27 and vocational experiences, character-building work ethics training,
28 life management skills development, substance abuse rehabilitation,
29 counseling, literacy training, and basic adult education.

30 (41) "Work release" means a program of partial confinement
31 available to offenders who are employed or engaged as a student in a
32 regular course of study at school. Participation in work release shall
33 be conditioned upon the offender attending work or school at regularly
34 defined hours and abiding by the rules of the work release facility.

35 (42) "Home detention" means a program of partial confinement
36 available to offenders wherein the offender is confined in a private
37 residence subject to electronic surveillance.

1 **Sec. 3.** RCW 9.94A.040 and 1995 c 269 s 303 are each amended to
2 read as follows:

3 (1) A sentencing guidelines commission is established as an agency
4 of state government.

5 (2) The legislature finds that the commission, having accomplished
6 its original statutory directive to implement this chapter, and having
7 expertise in sentencing practice and policies, shall~~((, following a~~
8 ~~public hearing or hearings))~~:

9 ~~((Devise a series of recommended standard sentence ranges for~~
10 ~~all felony offenses and a system for determining which range of~~
11 ~~punishment applies to each offender based on the extent and nature of~~
12 ~~the offender's criminal history, if any;~~

13 ~~(b))~~ Devise recommended prosecuting standards in respect to
14 charging of offenses and plea agreements; ~~((and~~

15 ~~(c) Devise recommended standards to govern whether sentences are to~~
16 ~~be served consecutively or concurrently.~~

17 ~~(3) Each of the commission's recommended standard sentence ranges~~
18 ~~shall include one or more of the following: Total confinement, partial~~
19 ~~confinement, community supervision, community service, and a fine.~~

20 ~~(4) In devising the standard sentence ranges of total and partial~~
21 ~~confinement under this section, the commission is subject to the~~
22 ~~following limitations:~~

23 ~~(a) If the maximum term in the range is one year or less, the~~
24 ~~minimum term in the range shall be no less than one third of the~~
25 ~~maximum term in the range, except that if the maximum term in the range~~
26 ~~is ninety days or less, the minimum term may be less than one third of~~
27 ~~the maximum;~~

28 ~~(b) If the maximum term in the range is greater than one year, the~~
29 ~~minimum term in the range shall be no less than seventy five percent of~~
30 ~~the maximum term in the range; and~~

31 ~~(c) The maximum term of confinement in a range may not exceed the~~
32 ~~statutory maximum for the crime as provided in RCW 9A.20.020.~~

33 ~~(5) In carrying out its duties under subsection (2) of this~~
34 ~~section, the commission shall give consideration to the existing~~
35 ~~guidelines adopted by the association of superior court judges and the~~
36 ~~Washington association of prosecuting attorneys and the experience~~
37 ~~gained through use of those guidelines. The commission shall emphasize~~
38 ~~confinement for the violent offender and alternatives to total~~
39 ~~confinement for the nonviolent offender.~~

1 ~~(6) This commission shall conduct a study to determine the capacity~~
2 ~~of correctional facilities and programs which are or will be available.~~
3 ~~While the commission need not consider such capacity in arriving at its~~
4 ~~recommendations, the commission shall project whether the~~
5 ~~implementation of its recommendations would result in exceeding such~~
6 ~~capacity. If the commission finds that this result would probably~~
7 ~~occur, then the commission shall prepare an additional list of standard~~
8 ~~sentences which shall be consistent with such capacity.~~

9 ~~(7) The commission may~~) (b) Evaluate state sentencing policy, to
10 include whether the sentencing ranges and standards are consistent with
11 and further:

12 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

13 (ii) The intent of the legislature to emphasize confinement for the
14 violent offender and alternatives to confinement for the nonviolent
15 offender.

16 The commission shall provide the governor and the legislature with
17 its evaluation and recommendations under this subsection not later than
18 December 1, 1996, and every two years thereafter;

19 (c) Recommend to the legislature revisions or modifications to the
20 standard sentence ranges, state sentencing policy, and other standards.
21 If implementation of the revisions or modifications would result in
22 exceeding the capacity of correctional facilities, then the commission
23 shall accompany its recommendation with an additional list of standard
24 sentence ranges which are consistent with correction capacity((-))i

25 ~~((8) The commission shall)~~) (d) Study the existing criminal code
26 and from time to time make recommendations to the legislature for
27 modification((-))i

28 ~~((9) The commission may (a))~~) (e)(i) Serve as a clearinghouse and
29 information center for the collection, preparation, analysis, and
30 dissemination of information on state and local adult and juvenile
31 sentencing practices; ((b)) (ii) develop and maintain a computerized
32 adult and juvenile sentencing information system by individual superior
33 court judge consisting of offender, offense, history, and sentence
34 information entered from judgment and sentence forms for all adult
35 felons; and ((e)) (iii) conduct ongoing research regarding adult and
36 juvenile sentencing guidelines, use of total confinement and
37 alternatives to total confinement, plea bargaining, and other matters
38 relating to the improvement of the adult criminal justice system((-))
39 and the juvenile justice system;

1 ~~((10) The staff and executive officer of the commission may~~
2 ~~provide staffing and services to the juvenile disposition standards~~
3 ~~commission, if authorized by RCW 13.40.025 and 13.40.027. The~~
4 ~~commission may conduct joint meetings with the juvenile disposition~~
5 ~~standards commission.~~

6 ~~(11) The commission shall~~) (f) Assume the powers and duties of the
7 juvenile disposition standards commission after June 30, ((1997-))
8 1996;

9 ~~((12))~~) (g) Not later than December 1, 1997, and at least every
10 two years thereafter, based on available information, report to the
11 governor and the legislature on:

12 (i) Racial disproportionality in juvenile and adult sentencing;

13 (ii) The capacity of state and local juvenile and adult facilities
14 and resources; and

15 (iii) Recidivism information on adult and juvenile offenders.

16 (3) Each of the commission's recommended standard sentence ranges
17 shall include one or more of the following: Total confinement, partial
18 confinement, community supervision, community service, and a fine.

19 (4) The standard sentence ranges of total and partial confinement
20 under this chapter are subject to the following limitations:

21 (a) If the maximum term in the range is one year or less, the
22 minimum term in the range shall be no less than one-third of the
23 maximum term in the range, except that if the maximum term in the range
24 is ninety days or less, the minimum term may be less than one-third of
25 the maximum;

26 (b) If the maximum term in the range is greater than one year, the
27 minimum term in the range shall be no less than seventy-five percent of
28 the maximum term in the range; and

29 (c) The maximum term of confinement in a range may not exceed the
30 statutory maximum for the crime as provided in RCW 9A.20.021.

31 (5) The commission shall exercise its duties under this section in
32 conformity with chapter 34.05 RCW.

33 **Sec. 4.** RCW 9.94A.060 and 1993 c 11 s 1 are each amended to read
34 as follows:

35 (1) The commission consists of ~~((sixteen))~~ nineteen voting members,
36 one of whom the governor shall designate as chairperson. With the
37 exception of ex officio voting members, the voting members of the

1 commission shall be appointed by the governor, subject to confirmation
2 by the senate.

3 (2) The voting membership consists of the following:

4 (a) The head of the state agency having general responsibility for
5 adult correction programs, as an ex officio member;

6 (b) The director of financial management or designee, as an ex
7 officio member;

8 (c) Until ~~((June 30, 1998, the chair of))~~ the indeterminate
9 sentence review board ceases to exist pursuant to RCW 9.95.0011, the
10 chair of the board, as an ex officio member;

11 (d) The ~~((chair of the clemency and pardons board))~~ head of the
12 state agency, or the agency head's designee, having responsibility for
13 juvenile corrections programs, as an ex officio member;

14 (e) Two prosecuting attorneys;

15 (f) Two attorneys with particular expertise in defense work;

16 (g) Four persons who are superior court judges;

17 (h) One person who is the chief law enforcement officer of a county
18 or city;

19 (i) Three members of the public who are not ~~((and have never been))~~
20 prosecutors, defense attorneys, judges, or law enforcement officers,
21 one of whom is appointed as a representative of crime victims;

22 (j) One person who is an elected official of a county government,
23 other than a prosecuting attorney or sheriff;

24 (k) One person who is an elected official of a city government;

25 (l) One person who is an administrator of juvenile court services.

26 In making the appointments, the governor shall endeavor to assure
27 that the commission membership includes adequate representation and
28 expertise relating to both the adult criminal justice system and the
29 juvenile justice system. In making the appointments, the governor
30 shall seek the recommendations of Washington prosecutors in respect to
31 the prosecuting attorney members, of the Washington state bar
32 association in respect to the defense attorney members, of the
33 association of superior court judges in respect to the members who are
34 judges, ((and)) of the Washington association of sheriffs and police
35 chiefs in respect to the member who is a law enforcement officer, of
36 the Washington state association of counties in respect to the member
37 who is a county official, of the association of Washington cities in
38 respect to the member who is a city official, and of the Washington

1 association of juvenile court administrators in respect to the member
2 who is an administrator of juvenile court services.

3 (3)(a) All voting members of the commission, except ex officio
4 voting members, shall serve terms of three years and until their
5 successors are appointed and confirmed. (~~However, the governor shall~~
6 ~~stagger the terms by appointing four of the initial members for terms~~
7 ~~of one year, four for terms of two years, and four for terms of three~~
8 ~~years.~~)

9 (b) The governor shall stagger the terms of the members appointed
10 under subsection (2)(j), (k), and (l) of this section by appointing one
11 of them for a term of one year, one for a term of two years, and one
12 for a term of three years.

13 (4) The speaker of the house of representatives and the president
14 of the senate may each appoint two nonvoting members to the commission,
15 one from each of the two largest caucuses in each house. The members
16 so appointed shall serve two-year terms, or until they cease to be
17 members of the house from which they were appointed, whichever occurs
18 first.

19 (5) The members of the commission shall be reimbursed for travel
20 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative
21 members shall be reimbursed by their respective houses as provided
22 under RCW 44.04.120, as now existing or hereafter amended. Members
23 shall be compensated in accordance with RCW 43.03.250.

24 **Sec. 5.** RCW 9.94A.320 and 1995 c 385 s 2, 1995 c 285 s 28, and
25 1995 s 129 s 3 (Initiative Measure No. 159) are each reenacted and
26 amended to read as follows:

27 TABLE 2

28 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

29	XV	Aggravated Murder 1 (RCW 10.95.020)
30	XIV	Murder 1 (RCW 9A.32.030)
31		Homicide by abuse (RCW 9A.32.055)
32	XIII	Murder 2 (RCW 9A.32.050)
33	XII	Assault 1 (RCW 9A.36.011)
34		Assault of a Child 1 (RCW 9A.36.120)

1 XI Rape 1 (RCW 9A.44.040)
2 Rape of a Child 1 (RCW 9A.44.073)
3 X Kidnapping 1 (RCW 9A.40.020)
4 Rape 2 (RCW 9A.44.050)
5 Rape of a Child 2 (RCW 9A.44.076)
6 Child Molestation 1 (RCW 9A.44.083)
7 Damaging building, etc., by explosion with
8 threat to human being (RCW
9 70.74.280(1))
10 Over 18 and deliver heroin or narcotic
11 from Schedule I or II to someone
12 under 18 (RCW 69.50.406)
13 Leading Organized Crime (RCW
14 9A.82.060(1)(a))
15 IX Assault of a Child 2 (RCW 9A.36.130)
16 Robbery 1 (RCW 9A.56.200)
17 Manslaughter 1 (RCW 9A.32.060)
18 Explosive devices prohibited (RCW
19 70.74.180)
20 Indecent Liberties (with forcible
21 compulsion) (RCW 9A.44.100(1)(a))
22 Endangering life and property by
23 explosives with threat to human being
24 (RCW 70.74.270)
25 Over 18 and deliver narcotic from Schedule
26 III, IV, or V or a nonnarcotic from
27 Schedule I-V to someone under 18 and
28 3 years junior (RCW 69.50.406)
29 Controlled Substance Homicide (RCW
30 69.50.415)
31 Sexual Exploitation (RCW 9.68A.040)
32 Inciting Criminal Profiteering (RCW
33 9A.82.060(1)(b))
34 Vehicular Homicide, by being under the
35 influence of intoxicating liquor or
36 any drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)
 2 Promoting Prostitution 1 (RCW 9A.88.070)
 3 Selling for profit (controlled or
 4 counterfeit) any controlled substance
 5 (RCW 69.50.410)
 6 Manufacture, deliver, or possess with
 7 intent to deliver heroin or cocaine
 8 (RCW 69.50.401(a)(1)(i))
 9 Manufacture, deliver, or possess with
 10 intent to deliver methamphetamine
 11 (RCW 69.50.401(a)(1)(ii))
 12 Vehicular Homicide, by the operation of
 13 any vehicle in a reckless manner (RCW
 14 46.61.520)

15 VII Burglary 1 (RCW 9A.52.020)
 16 Vehicular Homicide, by disregard for the
 17 safety of others (RCW 46.61.520)
 18 Introducing Contraband 1 (RCW 9A.76.140)
 19 Indecent Liberties (without forcible
 20 compulsion) (RCW 9A.44.100(1) (b) and
 21 (c))
 22 Child Molestation 2 (RCW 9A.44.086)
 23 Dealing in depictions of minor engaged in
 24 sexually explicit conduct (RCW
 25 9.68A.050)
 26 Sending, bringing into state depictions of
 27 minor engaged in sexually explicit
 28 conduct (RCW 9.68A.060)
 29 Involving a minor in drug dealing (RCW
 30 69.50.401(f))
 31 Reckless Endangerment 1 (RCW 9A.36.045)
 32 Unlawful Possession of a Firearm in the
 33 first degree (RCW 9.41.040(1)(a))

34 VI Bribery (RCW 9A.68.010)
 35 Manslaughter 2 (RCW 9A.32.070)
 36 Rape of a Child 3 (RCW 9A.44.079)
 37 Intimidating a Juror/Witness (RCW
 38 9A.72.110, 9A.72.130)

1 Damaging building, etc., by explosion with
2 no threat to human being (RCW
3 70.74.280(2))
4 Endangering life and property by
5 explosives with no threat to human
6 being (RCW 70.74.270)
7 Incest 1 (RCW 9A.64.020(1))
8 Manufacture, deliver, or possess with
9 intent to deliver narcotics from
10 Schedule I or II (except heroin or
11 cocaine) (RCW 69.50.401(a)(1)(i))
12 Intimidating a Judge (RCW 9A.72.160)
13 Bail Jumping with Murder 1 (RCW
14 9A.76.170(2)(a))
15 Theft of a Firearm (RCW 9A.56.300)
16 V Robbery 2 (RCW 9A.56.210)
17 Assault 2 (RCW 9A.36.021)
18 Persistent prison misbehavior (RCW
19 9.94.070)
20 Criminal Mistreatment 1 (RCW 9A.42.020)
21 Rape 3 (RCW 9A.44.060)
22 Sexual Misconduct with a Minor 1 (RCW
23 9A.44.093)
24 Child Molestation 3 (RCW 9A.44.089)
25 Kidnapping 2 (RCW 9A.40.030)
26 Extortion 1 (RCW 9A.56.120)
27 Incest 2 (RCW 9A.64.020(2))
28 Perjury 1 (RCW 9A.72.020)
29 Extortionate Extension of Credit (RCW
30 9A.82.020)
31 Advancing money or property for
32 extortionate extension of credit (RCW
33 9A.82.030)
34 Extortionate Means to Collect Extensions
35 of Credit (RCW 9A.82.040)
36 Rendering Criminal Assistance 1 (RCW
37 9A.76.070)
38 Bail Jumping with class A Felony (RCW
39 9A.76.170(2)(b))

1 Sexually Violating Human Remains (RCW
2 9A.44.105)
3 Delivery of imitation controlled substance
4 by person eighteen or over to person
5 under eighteen (RCW 69.52.030(2))
6 Possession of a Stolen Firearm (RCW
7 9A.56.310)

8 IV Residential Burglary (RCW 9A.52.025)
9 Theft of Livestock 1 (RCW 9A.56.080)
10 (~~Robbery 2 (RCW 9A.56.210)~~
11 ~~Assault 2 (RCW 9A.36.021)~~)
12 Escape 1 (RCW 9A.76.110)
13 Arson 2 (RCW 9A.48.030)
14 Commercial Bribery (RCW 9A.68.060)
15 Bribing a Witness/Bribe Received by
16 Witness (RCW 9A.72.090, 9A.72.100)
17 Malicious Harassment (RCW 9A.36.080)
18 Threats to Bomb (RCW 9.61.160)
19 Willful Failure to Return from Furlough
20 (RCW 72.66.060)
21 Hit and Run « Injury Accident (RCW
22 46.52.020(4))
23 Vehicular Assault (RCW 46.61.522)
24 Manufacture, deliver, or possess with
25 intent to deliver narcotics from
26 Schedule III, IV, or V or
27 nonnarcotics from Schedule I-V
28 (except marijuana or
29 methamphetamines) (RCW
30 69.50.401(a)(1)(ii) through (iv))
31 Influencing Outcome of Sporting Event (RCW
32 9A.82.070)
33 Use of Proceeds of Criminal Profiteering
34 (RCW 9A.82.080 (1) and (2))
35 Knowingly Trafficking in Stolen Property
36 (RCW 9A.82.050(2))

1 III Criminal Mistreatment 2 (RCW 9A.42.030)
2 Extortion 2 (RCW 9A.56.130)
3 Unlawful Imprisonment (RCW 9A.40.040)
4 Assault 3 (RCW 9A.36.031)
5 Assault of a Child 3 (RCW 9A.36.140)
6 Custodial Assault (RCW 9A.36.100)
7 Unlawful possession of firearm in the
8 second degree (RCW 9.41.040(1)(b))
9 Harassment (RCW 9A.46.020)
10 Promoting Prostitution 2 (RCW 9A.88.080)
11 Willful Failure to Return from Work
12 Release (RCW 72.65.070)
13 Burglary 2 (RCW 9A.52.030)
14 Introducing Contraband 2 (RCW 9A.76.150)
15 Communication with a Minor for Immoral
16 Purposes (RCW 9.68A.090)
17 Patronizing a Juvenile Prostitute (RCW
18 9.68A.100)
19 Escape 2 (RCW 9A.76.120)
20 Perjury 2 (RCW 9A.72.030)
21 Bail Jumping with class B or C Felony (RCW
22 9A.76.170(2)(c))
23 Intimidating a Public Servant (RCW
24 9A.76.180)
25 Tampering with a Witness (RCW 9A.72.120)
26 Manufacture, deliver, or possess with
27 intent to deliver marijuana (RCW
28 69.50.401(a)(1)(ii))
29 Delivery of a material in lieu of a
30 controlled substance (RCW
31 69.50.401(c))
32 Manufacture, distribute, or possess with
33 intent to distribute an imitation
34 controlled substance (RCW
35 69.52.030(1))
36 Recklessly Trafficking in Stolen Property
37 (RCW 9A.82.050(1))
38 Theft of livestock 2 (RCW 9A.56.080)

1 Securities Act violation (RCW 21.20.400)

2 II Unlawful Practice of Law (RCW 2.48.180)

3 Malicious Mischief 1 (RCW 9A.48.070)

4 Possession of Stolen Property 1 (RCW

5 9A.56.150)

6 Theft 1 (RCW 9A.56.030)

7 Trafficking in Insurance Claims (RCW

8 48.30A.015)

9 Unlicensed Practice of a Profession or

10 Business (RCW 18.130.190(7))

11 Health Care False Claims (RCW 48.80.030)

12 Possession of controlled substance that is

13 either heroin or narcotics from

14 Schedule I or II (RCW 69.50.401(d))

15 Possession of phencyclidine (PCP) (RCW

16 69.50.401(d))

17 Create, deliver, or possess a counterfeit

18 controlled substance (RCW

19 69.50.401(b))

20 Computer Trespass 1 (RCW 9A.52.110)

21 Escape from Community Custody (RCW

22 72.09.310)

23 I Theft 2 (RCW 9A.56.040)

24 Possession of Stolen Property 2 (RCW

25 9A.56.160)

26 Forgery (RCW 9A.60.020)

27 Taking Motor Vehicle Without Permission

28 (RCW 9A.56.070)

29 Vehicle Prowl 1 (RCW 9A.52.095)

30 Attempting to Elude a Pursuing Police

31 Vehicle (RCW 46.61.024)

32 Malicious Mischief 2 (RCW 9A.48.080)

33 Reckless Burning 1 (RCW 9A.48.040)

34 Unlawful Issuance of Checks or Drafts (RCW

35 9A.56.060)

36 Unlawful Use of Food Stamps (RCW 9.91.140

37 (2) and (3))

1 False Verification for Welfare (RCW
2 74.08.055)
3 Forged Prescription (RCW 69.41.020)
4 Forged Prescription for a Controlled
5 Substance (RCW 69.50.403)
6 Possess Controlled Substance that is a
7 Narcotic from Schedule III, IV, or V
8 or Non-narcotic from Schedule I-V
9 (except phencyclidine) (RCW
10 69.50.401(d))

11 **Sec. 6.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
12 each reenacted and amended to read as follows:

13 The offender score is measured on the horizontal axis of the
14 sentencing grid. The offender score rules are as follows:

15 The offender score is the sum of points accrued under this section
16 rounded down to the nearest whole number.

17 (1) A prior conviction is a conviction which exists before the date
18 of sentencing for the offense for which the offender score is being
19 computed. Convictions entered or sentenced on the same date as the
20 conviction for which the offender score is being computed shall be
21 deemed "other current offenses" within the meaning of RCW 9.94A.400.

22 (2) Except as provided in subsection (4) of this section, class A
23 and sex prior felony convictions shall always be included in the
24 offender score. Class B prior felony convictions other than sex
25 offenses shall not be included in the offender score, if since the last
26 date of release from confinement (including full-time residential
27 treatment) pursuant to a felony conviction, if any, or entry of
28 judgment and sentence, the offender had spent ten consecutive years in
29 the community without committing any crime that subsequently results in
30 a conviction. Class C prior felony convictions other than sex offenses
31 shall not be included in the offender score if, since the last date of
32 release from confinement (including full-time residential treatment)
33 pursuant to a felony conviction, if any, or entry of judgment and
34 sentence, the offender had spent five consecutive years in the
35 community without committing any crime that subsequently results in a
36 conviction. Serious traffic convictions shall not be included in the
37 offender score if, since the last date of release from confinement
38 (including full-time residential treatment) pursuant to a felony

1 conviction, if any, or entry of judgment and sentence, the offender
2 spent five years in the community without committing any crime that
3 subsequently results in a conviction. This subsection applies to both
4 adult and juvenile prior convictions.

5 (3) Out-of-state convictions for offenses shall be classified
6 according to the comparable offense definitions and sentences provided
7 by Washington law. Federal convictions for offenses shall be
8 classified according to the comparable offense definitions and
9 sentences provided by Washington law. If there is no clearly
10 comparable offense under Washington law or the offense is one that is
11 usually considered subject to exclusive federal jurisdiction, the
12 offense shall be scored as a class C felony equivalent if it was a
13 felony under the relevant federal statute.

14 (4) Always include juvenile convictions for sex offenses and
15 ((serious)) violent offenses. Include other class A juvenile felonies
16 only if the offender was 15 or older at the time the juvenile offense
17 was committed. Include other class B and C juvenile felony convictions
18 only if the offender was 15 or older at the time the juvenile offense
19 was committed and the offender was less than 23 at the time the offense
20 for which he or she is being sentenced was committed.

21 (5) Score prior convictions for felony anticipatory offenses
22 (attempts, criminal solicitations, and criminal conspiracies) the same
23 as if they were convictions for completed offenses.

24 (6)(a) In the case of multiple prior convictions, for the purpose
25 of computing the offender score, count all convictions separately,
26 except:

27 (i) Prior adult offenses which were found, under RCW
28 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
29 counted as one offense, the offense that yields the highest offender
30 score. The current sentencing court shall determine with respect to
31 other prior adult offenses for which sentences were served concurrently
32 whether those offenses shall be counted as one offense or as separate
33 offenses using the "same criminal conduct" analysis found in RCW
34 9.94A.400(1)(a), and if the court finds that they shall be counted as
35 one offense, then the offense that yields the highest offender score
36 shall be used. The current sentencing court may presume that such
37 other prior adult offenses were not the same criminal conduct from
38 sentences imposed on separate dates, or in separate counties or
39 jurisdictions, or in separate complaints, indictments, or informations;

1 (ii) Juvenile prior convictions entered or sentenced on the same
2 date shall count as one offense, the offense that yields the highest
3 offender score, except for juvenile prior convictions for violent
4 offenses with separate victims, which shall count as separate offenses;
5 and

6 (iii) In the case of multiple prior convictions for offenses
7 committed before July 1, 1986, for the purpose of computing the
8 offender score, count all adult convictions served concurrently as one
9 offense, and count all juvenile convictions entered on the same date as
10 one offense. Use the conviction for the offense that yields the
11 highest offender score.

12 (b) As used in this subsection (6), "served concurrently" means
13 that: (i) The latter sentence was imposed with specific reference to
14 the former; (ii) the concurrent relationship of the sentences was
15 judicially imposed; and (iii) the concurrent timing of the sentences
16 was not the result of a probation or parole revocation on the former
17 offense.

18 (7) If the present conviction is one of the anticipatory offenses
19 of criminal attempt, solicitation, or conspiracy, count each prior
20 conviction as if the present conviction were for a completed offense.

21 (8) If the present conviction is for a nonviolent offense and not
22 covered by subsection (12) or (13) of this section, count one point for
23 each adult prior felony conviction and one point for each juvenile
24 prior violent felony conviction and 1/2 point for each juvenile prior
25 nonviolent felony conviction.

26 (9) If the present conviction is for a violent offense and not
27 covered in subsection (10), (11), (12), or (13) of this section, count
28 two points for each prior adult and juvenile violent felony conviction,
29 one point for each prior adult nonviolent felony conviction, and 1/2
30 point for each prior juvenile nonviolent felony conviction.

31 (10) If the present conviction is for Murder 1 or 2, Assault 1,
32 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count
33 three points for prior adult and juvenile convictions for crimes in
34 these categories, two points for each prior adult and juvenile violent
35 conviction (not already counted), one point for each prior adult
36 nonviolent felony conviction, and 1/2 point for each prior juvenile
37 nonviolent felony conviction.

38 (11) If the present conviction is for Burglary 1, count prior
39 convictions as in subsection (9) of this section; however count two

1 points for each prior adult Burglary 2 or residential burglary
2 conviction, and one point for each prior juvenile Burglary 2 or
3 residential burglary conviction.

4 (12) If the present conviction is for a felony traffic offense
5 count two points for each adult or juvenile prior conviction for
6 Vehicular Homicide or Vehicular Assault; for each felony offense or
7 serious traffic offense, count one point for each adult and 1/2 point
8 for each juvenile prior conviction.

9 (13) If the present conviction is for a drug offense count three
10 points for each adult prior felony drug offense conviction and two
11 points for each juvenile drug offense. All other adult and juvenile
12 felonies are scored as in subsection (9) of this section if the current
13 drug offense is violent, or as in subsection (8) of this section if the
14 current drug offense is nonviolent.

15 (14) If the present conviction is for Willful Failure to Return
16 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
17 Release, RCW 72.65.070, or Escape from Community Custody, RCW
18 72.09.310, count only prior escape convictions in the offender score.
19 Count adult prior escape convictions as one point and juvenile prior
20 escape convictions as 1/2 point.

21 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
22 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
23 juvenile prior convictions as 1/2 point.

24 (16) If the present conviction is for Burglary 2 or residential
25 burglary, count priors as in subsection (8) of this section; however,
26 count two points for each adult and juvenile prior Burglary 1
27 conviction, two points for each adult prior Burglary 2 or residential
28 burglary conviction, and one point for each juvenile prior Burglary 2
29 or residential burglary conviction.

30 (17) If the present conviction is for a sex offense, count priors
31 as in subsections (8) through (16) of this section; however count three
32 points for each adult and juvenile prior sex offense conviction.

33 (18) If the present conviction is for an offense committed while
34 the offender was under community placement, add one point.

35 **Sec. 7.** RCW 9.94A.390 and 1995 c 316 s 2 are each amended to read
36 as follows:

37 If the sentencing court finds that an exceptional sentence outside
38 the standard range should be imposed in accordance with RCW

1 9.94A.120(2), the sentence is subject to review only as provided for in
2 RCW 9.94A.210(4).

3 The following are illustrative factors which the court may consider
4 in the exercise of its discretion to impose an exceptional sentence.
5 The following are illustrative only and are not intended to be
6 exclusive reasons for exceptional sentences.

7 (1) Mitigating Circumstances

8 (a) To a significant degree, the victim was an initiator, willing
9 participant, aggressor, or provoker of the incident.

10 (b) Before detection, the defendant compensated, or made a good
11 faith effort to compensate, the victim of the criminal conduct for any
12 damage or injury sustained.

13 (c) The defendant committed the crime under duress, coercion,
14 threat, or compulsion insufficient to constitute a complete defense but
15 which significantly affected his or her conduct.

16 (d) The defendant, with no apparent predisposition to do so, was
17 induced by others to participate in the crime.

18 (e) The defendant's capacity to appreciate the wrongfulness of his
19 or her conduct or to conform his or her conduct to the requirements of
20 the law, was significantly impaired (voluntary use of drugs or alcohol
21 is excluded).

22 (f) The offense was principally accomplished by another person and
23 the defendant manifested extreme caution or sincere concern for the
24 safety or well-being of the victim.

25 (g) The operation of the multiple offense policy of RCW 9.94A.400
26 results in a presumptive sentence that is clearly excessive in light of
27 the purpose of this chapter, as expressed in RCW 9.94A.010.

28 (h) The defendant or the defendant's children suffered a continuing
29 pattern of physical or sexual abuse by the victim of the offense and
30 the offense is a response to that abuse.

31 (2) Aggravating Circumstances

32 (a) The defendant's conduct during the commission of the current
33 offense manifested deliberate cruelty to the victim.

34 (b) The defendant knew or should have known that the victim of the
35 current offense was particularly vulnerable or incapable of resistance
36 due to extreme youth, advanced age, disability, or ill health.

37 (c) The current offense was a major economic offense or series of
38 offenses, so identified by a consideration of any of the following
39 factors:

1 (i) The current offense involved multiple victims or multiple
2 incidents per victim;

3 (ii) The current offense involved attempted or actual monetary loss
4 substantially greater than typical for the offense;

5 (iii) The current offense involved a high degree of sophistication
6 or planning or occurred over a lengthy period of time; or

7 (iv) The defendant used his or her position of trust, confidence,
8 or fiduciary responsibility to facilitate the commission of the current
9 offense.

10 (d) The current offense was a major violation of the Uniform
11 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
12 trafficking in controlled substances, which was more onerous than the
13 typical offense of its statutory definition: The presence of ANY of
14 the following may identify a current offense as a major VUCSA:

15 (i) The current offense involved at least three separate
16 transactions in which controlled substances were sold, transferred, or
17 possessed with intent to do so;

18 (ii) The current offense involved an attempted or actual sale or
19 transfer of controlled substances in quantities substantially larger
20 than for personal use;

21 (iii) The current offense involved the manufacture of controlled
22 substances for use by other parties;

23 (iv) The circumstances of the current offense reveal the offender
24 to have occupied a high position in the drug distribution hierarchy;

25 (v) The current offense involved a high degree of sophistication or
26 planning or occurred over a lengthy period of time or involved a broad
27 geographic area of disbursement; or

28 (vi) The offender used his or her position or status to facilitate
29 the commission of the current offense, including positions of trust,
30 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
31 other medical professional).

32 (e) The current offense included a finding of sexual motivation
33 pursuant to RCW 9.94A.127.

34 (f) The offense was part of an ongoing pattern of sexual abuse of
35 the same victim under the age of eighteen years manifested by multiple
36 incidents over a prolonged period of time.

37 (g) The operation of the multiple offense policy of RCW 9.94A.400
38 results in a presumptive sentence that is clearly too lenient in light
39 of the purpose of this chapter, as expressed in RCW 9.94A.010.

1 (h) The defendant's prior unscored misdemeanor or prior unscored
2 foreign criminal history results in a presumptive sentence that is
3 clearly too lenient in light of the purpose of this chapter as
4 expressed in RCW 9.94A.010.

5 (i) The presumptive sentence is clearly too lenient in light of the
6 purposes of this chapter as expressed in RCW 9.94A.010 considering the
7 defendant's prior unscored juvenile misdemeanor or felony
8 adjudications.

9 **Sec. 8.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
10 each reenacted and amended to read as follows:

11 (1) Except as provided in subsection (2) of this section, the
12 juvenile courts in the several counties of this state((7)) shall have
13 exclusive original jurisdiction over all proceedings:

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

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

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

20 (d) To approve or disapprove out-of-home placement as provided in
21 RCW 13.32A.170;

22 (e) Relating to juveniles alleged or found to have committed
23 offenses, traffic infractions, civil infractions, or violations as
24 provided in RCW 13.40.020 through 13.40.230, unless:

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

27 (ii) The statute of limitations applicable to adult prosecution for
28 the offense, traffic infraction, civil infraction, or violation has
29 expired; or

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

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

9 (iv) The alleged offense is a traffic or civil infraction, a
10 violation of compulsory school attendance provisions under chapter
11 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has
12 assumed concurrent jurisdiction over those offenses as provided in
13 section 10 of this act; or

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

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

32 (vi) The alleged offense is a violent offense and the juvenile has
33 previously been (A) committed to the department, or (B) adjudicated of
34 a felony sex offense; or

35 (vii) The alleged offense is a felony sex offense and the juvenile
36 has previously been (A) committed to the department, or (B) adjudicated
37 of a felony sex offense.

38 The word "committed" as used in (e)(vi) and (vii) of this
39 subsection means that the juvenile has been placed in the physical

1 custody of the department of social and health services in a facility
2 operated by or pursuant to a contract with the state.

3 The adult criminal court shall have exclusive original jurisdiction
4 over offenses covered by subsection (1)(e)(v), (vi), and (vii) of this
5 section. The adult criminal court shall also have exclusive original
6 jurisdiction over any charges arising out of the same incident as an
7 offense covered by subsection (1)(e)(v), (vi), and (vii) of this
8 section. Any juvenile who becomes subject to adult criminal court
9 jurisdiction under subsection (1)(e)(v), (vi), and (vii) of this
10 section shall remain under adult criminal court jurisdiction for all
11 future offenses;

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

14 (g) Relating to termination of a diversion agreement under RCW
15 13.40.080, including a proceeding in which the divertee has attained
16 eighteen years of age;

17 (h) Relating to court validation of a voluntary consent to an out-
18 of-home placement under chapter 13.34 RCW, by the parent or Indian
19 custodian of an Indian child, except if the parent or Indian custodian
20 and child are residents of or domiciled within the boundaries of a
21 federally recognized Indian reservation over which the tribe exercises
22 exclusive jurisdiction; and

23 (i) Relating to petitions to compel disclosure of information filed
24 by the department of social and health services pursuant to RCW
25 74.13.042.

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

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

34 (4) A parent, guardian, or custodian who has custody of any
35 juvenile under juvenile court jurisdiction is subject to the
36 jurisdiction of the juvenile court for purposes of enforcing required
37 attendance at juvenile court hearings if the parent, guardian, or
38 custodian is served with a summons.

1 NEW SECTION. **Sec. 9.** The legislature finds that a swift and
2 certain response to a juvenile who begins engaging in acts of
3 delinquency may prevent the offender from becoming a chronic or more
4 serious offender. However, given pressing demands to address serious
5 offenders, the system does not always respond to minor offenders
6 expeditiously and effectively. Consequently, sections 10, 31, and 32
7 of this act are adopted to implement an experiment to determine whether
8 granting courts of limited jurisdiction concurrent jurisdiction over
9 certain juvenile offenses will improve the system's effectiveness in
10 curbing delinquency. The legislature may ascertain whether this
11 approach might be successful on a larger scale by conducting an
12 experiment with local governments, which are the laboratories of
13 democracy.

14 NEW SECTION. **Sec. 10.** A new section is added to chapter 13.04 RCW
15 to read as follows:

16 (1) Any county with a population of at least one hundred seventy-
17 five thousand but less than two hundred fifty thousand that has a city
18 with a population of at least fifty-nine thousand may authorize a pilot
19 project to allow courts of limited jurisdiction within the county to
20 exercise concurrent jurisdiction with the juvenile court under certain
21 circumstances. District and municipal courts of limited jurisdiction
22 at the local option of the county or any city or town located within
23 the county may exercise concurrent original jurisdiction with the
24 juvenile court over traffic or civil infractions, violations of
25 compulsory school attendance provisions under chapter 28A.225 RCW, and
26 misdemeanors when those offenses are allegedly committed by juveniles
27 and:

28 (a)(i) The offense, which if committed by an adult, is punishable
29 by sanctions that do not include incarceration; or

30 (ii) The offender's standard range disposition does not include
31 more than ten days in confinement as defined in RCW 13.40.020;

32 (b) The court of limited jurisdiction has a computer system that is
33 linked to the state-wide criminal history information data system used
34 by juvenile courts to track and record juvenile offenders' criminal
35 history;

36 (c) The county legislative authority of the county has authorized
37 creation of concurrent jurisdiction between the court of limited
38 jurisdiction and the juvenile court; and

1 (d) The court of limited jurisdiction has an agreement with
2 officials responsible for administering the county juvenile detention
3 facility pursuant to RCW 13.04.035 and 13.20.060 that the court may
4 order juveniles into the detention facility for an offense in cases in
5 which the court finds that a disposition without confinement would be
6 a manifest injustice.

7 (2) The juvenile court shall retain jurisdiction over the offense
8 if the juvenile is charged with another offense arising out of the same
9 incident and the juvenile court has jurisdiction over the other
10 offense.

11 (3) Jurisdiction under this section does not constitute a decline
12 or transfer of juvenile court jurisdiction under RCW 13.40.110.

13 (4) The procedural and disposition provisions of chapter 13.40 RCW
14 shall apply to offenses prosecuted under this section.

15 (5) All diversions and adjudications entered by a court of limited
16 jurisdiction shall be included in an offender's criminal history as
17 provided in chapter 13.40 RCW.

18 (6) The provisions of this section shall be implemented as a pilot
19 project in the county.

20 **Sec. 11.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to
21 read as follows:

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

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

33 (a) Protect the citizenry from criminal behavior;

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

36 (c) Make the juvenile offender accountable for his or her criminal
37 behavior;

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

3 (e) Provide due process for juveniles alleged to have committed an
4 offense;

5 (f) Provide necessary treatment, supervision, and custody for
6 juvenile offenders;

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

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

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

13 (j) Provide for a clear policy to determine what types of offenders
14 shall receive punishment, treatment, or both, and to determine the
15 jurisdictional limitations of the courts, institutions, and community
16 services; and

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

19 **Sec. 12.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
20 each reenacted and amended to read as follows:

21 For the purposes of this chapter:

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

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

26 (b) Manslaughter in the first degree; or

27 (c) Assault in the second degree, extortion in the first degree,
28 child molestation in the second degree, kidnapping in the second
29 degree, robbery in the second degree, residential burglary, or burglary
30 in the second degree, where such offenses include the infliction of
31 bodily harm upon another or where during the commission of or immediate
32 withdrawal from such an offense the perpetrator is armed with a deadly
33 weapon;

34 (2) "Community service" means compulsory service, without
35 compensation, performed for the benefit of the community by the
36 offender as punishment for committing an offense. Community service
37 may be performed through public or private organizations or through
38 work crews;

1 (3) "Community supervision" means an order of disposition by the
2 court of an adjudicated youth not committed to the department or an
3 order granting a deferred adjudication pursuant to RCW 13.40.125. A
4 community supervision order for a single offense may be for a period of
5 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
6 one year for other offenses. As a mandatory condition of any term of
7 community supervision, the court shall order the juvenile to refrain
8 from committing new offenses. As a mandatory condition of community
9 supervision, the court shall order the juvenile to comply with the
10 mandatory school attendance provisions of chapter 28A.225 RCW and to
11 inform the school of the existence of this requirement. Community
12 supervision is an individualized program comprised of one or more of
13 the following:

- 14 (a) Community-based sanctions;
- 15 (b) Community-based rehabilitation;
- 16 (c) Monitoring and reporting requirements;
- 17 (d) Posting of a probation bond (~~((imposed pursuant to RCW~~
18 ~~13.40.0357))~~ as provided in RCW 13.40.054;

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

- 21 (a) A fine, not to exceed one hundred dollars;
- 22 (b) Community service not to exceed one hundred fifty hours of
23 service;

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

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

1 (7) "Confinement" means physical custody by the department of
2 social and health services in a facility operated by or pursuant to a
3 contract with the state, or physical custody in a detention facility
4 operated by or pursuant to a contract with any county. The county may
5 operate or contract with vendors to operate county detention
6 facilities. The department may operate or contract to operate
7 detention facilities for juveniles committed to the department.
8 Pretrial confinement or confinement of less than thirty-one days
9 imposed as part of a disposition or modification order may be served
10 consecutively or intermittently, in the discretion of the court;

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

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

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

19 (b) The criminal complaint was diverted by a prosecutor pursuant to
20 the provisions of this chapter on agreement of the respondent and after
21 an advisement to the respondent that the criminal complaint would be
22 considered as part of the respondent's criminal history. A
23 successfully completed deferred adjudication shall not be considered
24 part of the respondent's criminal history;

25 (10) "Department" means the department of social and health
26 services;

27 (11) "Detention facility" means a county facility, paid for by the
28 county, for the physical confinement of a juvenile alleged to have
29 committed an offense or an adjudicated offender subject to a
30 disposition or modification order. "Detention facility" includes
31 county group homes, inpatient substance abuse programs, juvenile basic
32 training camps, and electronic monitoring;

33 (12) "Diversion unit" means any probation counselor who enters into
34 a diversion agreement with an alleged youthful offender, or any other
35 person, community accountability board, or other entity except a law
36 enforcement official or entity, with whom the juvenile court
37 administrator has contracted to arrange and supervise such agreements
38 pursuant to RCW 13.40.080, or any person, community accountability
39 board, or other entity specially funded by the legislature to arrange

1 and supervise diversion agreements in accordance with the requirements
2 of this chapter. For purposes of this subsection, "community
3 accountability board" means a board comprised of members of the local
4 community in which the juvenile offender resides. The superior court
5 shall appoint the members. The boards shall consist of at least three
6 and not more than seven members. If possible, the board should include
7 a variety of representatives from the community, such as a law
8 enforcement officer, teacher or school administrator, high school
9 student, parent, and business owner, and should represent the cultural
10 diversity of the local community;

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

13 (14) "Juvenile," "youth," and "child" mean any individual who is
14 under the chronological age of eighteen years and who has not been
15 previously transferred to adult court pursuant to RCW 13.40.110 or who
16 is otherwise under adult criminal court jurisdiction pursuant to RCW
17 13.04.030;

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

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

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

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

30 (a) Four misdemeanors;

31 (b) Two misdemeanors and one gross misdemeanor;

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

33 (d) Three gross misdemeanors.

34 For purposes of this definition, current violations shall be
35 counted as misdemeanors;

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

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

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

13 (22) "Secretary" means the secretary of the department of social
14 and health services. "Assistant secretary" means the assistant
15 secretary for juvenile rehabilitation for the department;

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

20 (24) "Sex offense" means an offense defined as a sex offense in RCW
21 9.94A.030;

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

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

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

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

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

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

5 **Sec. 13.** RCW 13.40.025 and 1995 c 269 s 302 are each amended to
6 read as follows:

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

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

31 (3) The secretary or the secretary's designee shall serve as
32 chairman of the commission.

33 (4) The secretary shall serve on the commission during the
34 secretary's tenure as secretary of the department. The term of the
35 remaining members of the commission shall be three years. The initial
36 terms shall be determined by lot conducted at the commission's first
37 meeting as follows: (a) Four members shall serve a two-year term; and
38 (b) four members shall serve a three-year term. In the event of a

1 vacancy, the appointing authority shall designate a new member to
2 complete the remainder of the unexpired term.

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

6 (6) The commission shall cease to exist on June 30, ~~((1997))~~ 1996,
7 and its powers and duties shall be transferred to the sentencing
8 guidelines commission established under RCW 9.94A.040.

9 **Sec. 14.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
10 as follows:

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

25 (2) It is the responsibility of the department to: (a) Provide the
26 commission with available data concerning the implementation of the
27 disposition standards and related statutes and their effect on the
28 performance of the department's responsibilities relating to juvenile
29 offenders; and (b) ~~((at the request of the commission, provide~~
30 ~~technical and administrative assistance to the commission in the~~
31 ~~performance of its responsibilities; and (c)))~~ provide the commission
32 and legislature with recommendations for modification of the
33 disposition standards. The office of the administrator for the courts
34 shall provide the commission with available data on diversion and
35 dispositions of juvenile offenders under chapter 13.40 RCW.

36 **Sec. 15.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
37 as follows:

1 (1)((~~a~~)) The (~~juvenile disposition standards~~) sentencing
2 guidelines commission shall recommend to the legislature no later than
3 (~~November 1st of each year~~) December 1, 1996, disposition standards
4 for all offenses. The standards shall establish, in accordance with
5 the purposes of this chapter, ranges which may include terms of
6 confinement and/or community supervision established on the basis of
7 (~~a youth's age,~~) the instant offense(~~(7)~~) and the history and
8 seriousness of previous offenses, but in no case may the period of
9 confinement and supervision exceed that to which an adult may be
10 subjected for the same offense(s). Standards recommended for offenders
11 listed in RCW 13.40.020(1) shall include a range of confinement which
12 may not be less than thirty days. No standard range may include a
13 period of confinement which includes both more than thirty, and thirty
14 or less, days. Disposition standards recommended by the commission
15 shall provide that in all cases where a youth is sentenced to a term of
16 confinement in excess of thirty days the department may impose an
17 additional period of parole (~~not to exceed eighteen months~~)).
18 Standards of confinement which may be proposed may relate only to the
19 length of the proposed terms and not to the nature of the security to
20 be imposed. (~~In developing recommended disposition standards, the~~
21 ~~commission shall consider the capacity of the state juvenile facilities~~
22 ~~and the projected impact of the proposed standards on that capacity.~~

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

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

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

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

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

13 disposition standards shall result in a simplified disposition system.
14 In setting the new standards, the commission shall focus on the need to
15 protect public safety by emphasizing punishment, deterrence, and
16 confinement for violent and repeat offenders. The seriousness of the
17 offense shall be the most important factor in determining the length of
18 confinement, while the offender's age and criminal history shall count
19 as contributing factors. The commission shall increase judicial
20 flexibility and discretion by broadening standard ranges of
21 confinement. The commission shall provide for the use of basic
22 training camp programs. Alternatives to total confinement shall be
23 considered for nonviolent offenders. The commission must also study
24 the feasibility of creating a disposition option allowing a court to
25 order minor/first or middle offenders into inpatient substance abuse
26 treatment. To determine the feasibility of that option, the commission
27 must review the number of existing beds and funding available through
28 private, county, state, or federal resources, criteria for eligibility
29 for funding, competing avenues of access to those beds, the current
30 system's method of prioritizing the needs for limited bed space, the
31 average length of stay in inpatient treatment, the costs of that
32 treatment, and the cost effectiveness of inpatient treatment compared
33 to outpatient treatment.

34 In setting new standards, the commission must also recommend
35 disposition and institutional options for serious or chronic offenders
36 between the ages of fifteen and twenty-five who currently must either
37 be released from juvenile court jurisdiction at age twenty-one or who
38 are prosecuted as adults because the juvenile system is inadequate to
39 address the seriousness of their crimes, their rehabilitation needs, or

1 public safety. One option must include development of a youthful
2 offender disposition option that combines adult criminal sentencing
3 guidelines and juvenile disposition standards and addresses: (a)
4 Whether youthful offenders would be under jurisdiction of the
5 department of corrections or the department of social and health
6 services; (b) whether current age restrictions on juvenile court
7 jurisdiction would be modified; and (c) whether the department of
8 social and health services or the department of corrections would
9 provide institutional and community correctional services. The option
10 must also recommend an implementation timeline and plan, identify
11 funding and capital construction or improvement options to provide
12 separate facilities for youthful offenders, and identify short and
13 long-term fiscal impacts.

14 In developing the new standards, the commission must review
15 disposition options in other states and consult with interested parties
16 including superior court judges, prosecutors, defense attorneys,
17 juvenile court administrators, victims advocates, the department of
18 corrections and the department of social and health services, and
19 members of the legislature.

20 NEW SECTION. Sec. 16. A new section is added to chapter 13.40 RCW
21 to read as follows:

22 The secretary shall submit a report on security at juvenile
23 facilities during the preceding year. The report shall include the
24 number of escapes from each juvenile facility, the most serious offense
25 for which each escapee had been confined, the number and nature of
26 offenses found to have been committed by juveniles while on escape
27 status, the number of authorized leaves granted, the number of failures
28 to comply with leave requirements, the number and nature of offenses
29 committed while on leave, and the number and nature of offenses
30 committed by juveniles while in the community on minimum security
31 status; to the extent this information is available to the secretary.
32 The department shall include security status definitions in the report
33 it submits to the legislature pursuant to this section. The report
34 shall be submitted no later than December 15th of each year.

35 **Sec. 17.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to
36 read as follows:

37 SCHEDULE A

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE

DISPOSITION

JUVENILE

CATEGORY FOR ATTEMPT,

DISPOSITION

BAILJUMP, CONSPIRACY,

OFFENSE

OR SOLICITATION

.....

Arson and Malicious Mischief

9	A	Arson 1 (9A.48.020)	B+
10	B	Arson 2 (9A.48.030)	C
11	C	Reckless Burning 1 (9A.48.040)	D
12	D	Reckless Burning 2 (9A.48.050)	E
13	B	Malicious Mischief 1 (9A.48.070)	C
14	C	Malicious Mischief 2 (9A.48.080)	D
15	D	Malicious Mischief 3 (<\$50 is	
16		E class) (9A.48.090)	E
17	E	Tampering with Fire Alarm	
18		Apparatus (9.40.100)	E
19	A	Possession of Incendiary Device	
20		(9.40.120)	B+

Assault and Other Crimes

Involving Physical Harm

23	A	Assault 1 (9A.36.011)	B+
24	B+	Assault 2 (9A.36.021)	C+
25	C+	Assault 3 (9A.36.031)	D+
26	D+	Assault 4 (9A.36.041)	E
27	D+	Reckless Endangerment	
28		(9A.36.050)	E
29	C+	Promoting Suicide Attempt	
30		(9A.36.060)	D+
31	D+	Coercion (9A.36.070)	E
32	C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

34	B+	Burglary 1 (9A.52.020)	C+
35	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
36	B	Burglary 2 (9A.52.030)	C

1	D	Burglary Tools (Possession of)	
2		(9A.52.060)	E
3	D	Criminal Trespass 1 (9A.52.070)	E
4	E	Criminal Trespass 2 (9A.52.080)	E
5	D	Vehicle Prowling (9A.52.100)	E
6		Drugs	
7	E	Possession/Consumption of Alcohol	
8		(66.44.270)	E
9	C	Illegally Obtaining Legend Drug	
10		(69.41.020)	D
11	C+	Sale, Delivery, Possession of Legend	
12		Drug with Intent to Sell	
13		(69.41.030)	D+
14	E	Possession of Legend Drug	
15		(69.41.030)	E
16	B+	Violation of Uniform Controlled	
17		Substances Act - Narcotic Sale	
18		(69.50.401(a)(1)(i))	B+
19	C	Violation of Uniform Controlled	
20		Substances Act - Nonnarcotic Sale	
21		(69.50.401(a)(1)(ii))	C
22	E	Possession of Marihuana <40 grams	
23		(69.50.401(e))	E
24	C	Fraudulently Obtaining Controlled	
25		Substance (69.50.403)	C
26	C+	Sale of Controlled Substance	
27		for Profit (69.50.410)	C+
28	E	Unlawful Inhalation (9.47A.020)	E
29	B	Violation of Uniform Controlled	
30		Substances Act - Narcotic	
31		Counterfeit Substances	
32		(69.50.401(b)(1)(i))	B
33	C	Violation of Uniform Controlled	
34		Substances Act - Nonnarcotic	
35		Counterfeit Substances	
36		(69.50.401(b)(1) (ii), (iii), (iv))	C
37	C	Violation of Uniform Controlled	
38		Substances Act - Possession of a	

1		Controlled Substance	
2		(69.50.401(d))	C
3	C	Violation of Uniform Controlled	
4		Substances Act - Possession of a	
5		Controlled Substance	
6		(69.50.401(c))	C
7		Firearms and Weapons	
8	E	Carrying Loaded Pistol Without	
9		Permit (9.41.050)	E
10	C	Possession of Firearms by	
11		Minor (<18) (9.41.040(1)((+e+)) <u>(b)(iv)</u>)	C
12	D+	Possession of Dangerous Weapon	
13		(9.41.250)	E
14	D	Intimidating Another Person by use	
15		of Weapon (9.41.270)	E
16		Homicide	
17	A+	Murder 1 (9A.32.030)	A
18	A+	Murder 2 (9A.32.050)	B+
19	B+	Manslaughter 1 (9A.32.060)	C+
20	C+	Manslaughter 2 (9A.32.070)	D+
21	B+	Vehicular Homicide (46.61.520)	C+
22		Kidnapping	
23	A	Kidnap 1 (9A.40.020)	B+
24	B+	Kidnap 2 (9A.40.030)	C+
25	C+	Unlawful Imprisonment	
26		(9A.40.040)	D+
27		Obstructing Governmental Operation	
28	E	Obstructing a Law Enforcement Officer	
29		(9A.76.020)	E
30	E	Resisting Arrest (9A.76.040)	E
31	B	Introducing Contraband 1	
32		(9A.76.140)	C
33	C	Introducing Contraband 2	
34		(9A.76.150)	D
35	E	Introducing Contraband 3	
36		(9A.76.160)	E

1	B+	Intimidating a Public Servant	
2		(9A.76.180)	C+
3	B+	Intimidating a Witness	
4		(9A.72.110)	C+
5		Public Disturbance	
6	C+	Riot with Weapon (9A.84.010)	D+
7	D+	Riot Without Weapon	
8		(9A.84.010)	E
9	E	Failure to Disperse (9A.84.020)	E
10	E	Disorderly Conduct (9A.84.030)	E
11		Sex Crimes	
12	A	Rape 1 (9A.44.040)	B+
13	A-	Rape 2 (9A.44.050)	B+
14	C+	Rape 3 (9A.44.060)	D+
15	A-	Rape of a Child 1 (9A.44.073)	B+
16	B	Rape of a Child 2 (9A.44.076)	C+
17	B	Incest 1 (9A.64.020(1))	C
18	C	Incest 2 (9A.64.020(2))	D
19	D+	Indecent Exposure	
20		(Victim <14) (9A.88.010)	E
21	E	Indecent Exposure	
22		(Victim 14 or over) (9A.88.010)	E
23	B+	Promoting Prostitution 1	
24		(9A.88.070)	C+
25	C+	Promoting Prostitution 2	
26		(9A.88.080)	D+
27	E	O & A (Prostitution) (9A.88.030)	E
28	B+	Indecent Liberties (9A.44.100)	C+
29	B+	Child Molestation 1 (9A.44.083)	C+
30	C+	Child Molestation 2 (9A.44.086)	C
31		Theft, Robbery, Extortion, and Forgery	
32	B	Theft 1 (9A.56.030)	C
33	C	Theft 2 (9A.56.040)	D
34	D	Theft 3 (9A.56.050)	E
35	B	Theft of Livestock (9A.56.080)	C
36	C	Forgery (9A.60.020)	D
37	A	Robbery 1 (9A.56.200)	B+
38	B+	Robbery 2 (9A.56.210)	C+

1	B+	Extortion 1 (9A.56.120)	C+
2	C+	Extortion 2 (9A.56.130)	D+
3	B	Possession of Stolen Property 1	
4		(9A.56.150)	C
5	C	Possession of Stolen Property 2	
6		(9A.56.160)	D
7	D	Possession of Stolen Property 3	
8		(9A.56.170)	E
9	C	Taking Motor Vehicle Without	
10		Owner's Permission (9A.56.070)	D
11		Motor Vehicle Related Crimes	
12	E	Driving Without a License	
13		(46.20.021)	E
14	C	Hit and Run - Injury	
15		(46.52.020(4))	D
16	D	Hit and Run-Attended	
17		(46.52.020(5))	E
18	E	Hit and Run-Unattended	
19		(46.52.010)	E
20	C	Vehicular Assault (46.61.522)	D
21	C	Attempting to Elude Pursuing	
22		Police Vehicle (46.61.024)	D
23	E	Reckless Driving (46.61.500)	E
24	D	Driving While Under the Influence	
25		(46.61.502 and 46.61.504)	E
26	D	Vehicle Prowling (9A.52.100)	E
27	C	Taking Motor Vehicle Without	
28		Owner's Permission (9A.56.070)	D
29		Other	
30	B	Bomb Threat (9.61.160)	C
31	C	Escape 1 (9A.76.110)	C
32	C	Escape 2 (9A.76.120)	C
33	D	Escape 3 (9A.76.130)	E
34	E	Obscene, Harassing, Etc.,	
35		Phone Calls (9.61.230)	E
36	A	Other Offense Equivalent to an	
37		Adult Class A Felony	B+

1	B	Other Offense Equivalent to an	
2		Adult Class B Felony	C
3	C	Other Offense Equivalent to an	
4		Adult Class C Felony	D
5	D	Other Offense Equivalent to an	
6		Adult Gross Misdemeanor	E
7	E	Other Offense Equivalent to an	
8		Adult Misdemeanor	E
9	V	Violation of Order of Restitution,	
10		Community Supervision, or	
11		Confinement, (2)13.40.200) -	V

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

14 1st escape or attempted escape during 12-month period - 4 weeks
15 confinement

16 2nd escape or attempted escape during 12-month period - 8 weeks
17 confinement

18 3rd and subsequent escape or attempted escape during 12-month
19 period - 12 weeks confinement

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

22 SCHEDULE B
23 PRIOR OFFENSE INCREASE FACTOR

24 For use with all CURRENT OFFENSES occurring on or after July 1,
25 1989.

26 TIME SPAN

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

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

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

9 SCHEDULE C

10 CURRENT OFFENSE POINTS

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

13 AGE

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

27 JUVENILE SENTENCING STANDARDS

28 SCHEDULE D-1

29 This schedule may only be used for minor/first offenders. After the
30 determination is made that a youth is a minor/first offender, the court
31 has the discretion to select sentencing option A(~~(7)~~) or B(~~(7-or-C)~~).

MINOR/FIRST OFFENDER

OPTION A

STANDARD RANGE

~~((Community~~

~~Community Service~~

~~Points Supervision Hours Fine~~

~~1-9 0-3 months and/or 0-8 and/or 0-\$10~~

~~10-19 0-3 months and/or 0-8 and/or 0-\$10~~

~~20-29 0-3 months and/or 0-16 and/or 0-\$10~~

~~30-39 0-3 months and/or 8-24 and/or 0-\$25~~

~~40-49 3-6 months and/or 16-32 and/or 0-\$25~~

~~50-59 3-6 months and/or 24-40 and/or 0-\$25~~

~~60-69 6-9 months and/or 32-48 and/or 0-\$50~~

~~70-79 6-9 months and/or 40-56 and/or 0-\$50~~

~~80-89 9-12 months and/or 48-64 and/or 10-\$100~~

~~90-109 9-12 months and/or 56-72 and/or 10-\$100))~~

Community

Community Service

Points Supervision Hours Fine

1-9 0-12 months and/or 0-150 and/or 0-\$100

10-19 0-12 months and/or 0-150 and/or 0-\$100

20-29 0-12 months and/or 0-150 and/or 0-\$100

30-39 0-12 months and/or 8-150 and/or 0-\$100

40-49 3-12 months and/or 16-150 and/or 0-\$100

50-59 3-12 months and/or 24-150 and/or 0-\$100

60-69 6-12 months and/or 32-150 and/or 0-\$100

70-79 6-12 months and/or 40-150 and/or 0-\$100

80-89 9-12 months and/or 48-150 and/or 10-\$100

90-109 9-12 months and/or 56-150 and/or 10-\$100

A minor/first offender receiving an option A disposition may also be required to serve 0 to 10 days in confinement.

OR

OPTION B

~~((STATUTORY OPTION~~

~~0-12 Months Community Supervision~~

1 ~~0-150 Hours Community Service~~
2 ~~0-100 Fine~~
3 ~~Posting of a Probation Bond~~
4 ~~A term of community supervision with a maximum of 150 hours, \$100.00~~
5 ~~fine, and 12 months supervision.~~

6 OR

7 OPTION C))

8 MANIFEST INJUSTICE

9 When a term of community supervision would effectuate a manifest
10 injustice, another disposition may be imposed. When a judge imposes a
11 sentence of confinement exceeding 30 days, the court shall sentence the
12 juvenile to a maximum term and the provisions of ((RCW 13.40.030(2)))
13 section 26 of this act shall be used to determine the range.

14 JUVENILE SENTENCING STANDARDS

15 SCHEDULE D-2

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

19 MIDDLE OFFENDER

20 OPTION A

21 STANDARD RANGE

22 ((Community

23	Community	Service	Confinement			
24	Points	Supervision	Hours	Fine	Days	Weeks
25					
26	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
27	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
28	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0	
29	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4	
30	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4	
31	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10	
32	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10	
33	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20	

1 ~~80-89~~ ~~9-12 months~~ ~~and/or 48-64~~ ~~and/or 0-\$100~~ ~~and/or 10-20~~
 2 ~~90-109~~ ~~9-12 months~~ ~~and/or 56-72~~ ~~and/or 0-\$100~~ ~~and/or 15-30~~
 3 ~~110-129~~ ~~8-12~~
 4 ~~130-149~~ ~~13-16))~~

5 Community
 6 Community Service
 7 Points Supervision Hours Fine Confinement
 8 (Days)

9

10	<u>1-9</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
11	<u>10-19</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
12	<u>20-29</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
13	<u>30-39</u>	<u>0-12 months</u>	<u>and/or 8-150</u>	<u>and/or 0-\$100</u>	<u>and/or 2-30</u>
14	<u>40-49</u>	<u>3-12 months</u>	<u>and/or 16-150</u>	<u>and/or 0-\$100</u>	<u>and/or 2-30</u>
15	<u>50-59</u>	<u>3-12 months</u>	<u>and/or 24-150</u>	<u>and/or 0-\$100</u>	<u>and/or 5-30</u>
16	<u>60-69</u>	<u>6-12 months</u>	<u>and/or 32-150</u>	<u>and/or 0-\$100</u>	<u>and/or 5-30</u>
17	<u>70-79</u>	<u>6-12 months</u>	<u>and/or 40-150</u>	<u>and/or 0-\$100</u>	<u>and/or 10-30</u>
18	<u>80-89</u>	<u>9-12 months</u>	<u>and/or 48-150</u>	<u>and/or 0-\$100</u>	<u>and/or 10-30</u>
19	<u>90-109</u>	<u>9-12 months</u>	<u>and/or 56-150</u>	<u>and/or 0-\$100</u>	<u>and/or 15-30</u>

20 (Weeks)

21	<u>110-149</u>	<u>20-24</u>
22	<u>150-199</u>	<u>21-28</u>
23	<u>200-249</u>	<u>30-40</u>
24	<u>250-299</u>	<u>52-65</u>
25	<u>300-374</u>	<u>80-100</u>
26	<u>375+</u>	<u>103-129</u>

27 Middle offenders with 110 points or more do not have to be committed to
 28 the department. They may be assigned community supervision under
 29 option B.

30 All A+ offenses 180-224 weeks

31 OR
 32 OPTION B
 33 STATUTORY OPTION
 34 OFFENDERS WITH 110 POINTS OR MORE

35 ((~~0-12 Months Community Supervision~~
 36 ~~0-150 Hours Community Service~~

1 ~~0-100 Fine~~

2 ~~Posting of a Probation Bond))~~

3 If the offender has (~~(less than)~~) 110 points or more, the court may
4 impose (~~(a determinate disposition of community supervision and/or up~~
5 ~~to 30 days confinement; in which case, if confinement has been imposed,~~
6 ~~the court shall state either aggravating or mitigating factors as set~~
7 ~~forth in RCW 13.40.150)) an option B disposition as provided in RCW
8 13.40.160(4)(b).~~

9 (~~If the middle offender has 110 points or more, the court may~~
10 ~~impose a disposition under option A and may suspend the disposition on~~
11 ~~the condition that the offender serve up to thirty days of confinement~~
12 ~~and follow all conditions of community supervision. If the offender~~
13 ~~fails to comply with the terms of community supervision, the court may~~
14 ~~impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended~~
15 ~~disposition and order execution of the disposition. If the court~~
16 ~~imposes confinement for offenders with 110 points or more, the court~~
17 ~~shall state either aggravating or mitigating factors set forth in RCW~~
18 ~~13.40.150.))~~

19 OR

20 OPTION C

21 MANIFEST INJUSTICE

22 ALL MIDDLE OFFENDERS

23 If the court determines that a disposition under A or B would
24 effectuate a manifest injustice, the court shall sentence the juvenile
25 to a maximum term and the provisions of (~~(RCW 13.40.030(2))~~) section 26
26 of this act shall be used to determine the range.

27 JUVENILE SENTENCING STANDARDS

28 SCHEDULE D-3

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

1 SERIOUS OFFENDER

2 OPTION A

3 STANDARD RANGE

4	Points	Institution Time
5	((0-129 _____ 8-12 weeks	
6	130-149 _____ 13-16 weeks	
7	150-199 _____ 21-28 weeks	
8	200-249)) <u>0-249</u>	30-40 weeks
9	250-299	52-65 weeks
10	300-374	80-100 weeks
11	375+	103-129 weeks
12	All A+	
13	Offenses	180-224 weeks

14 OR

15 OPTION B

16 MANIFEST INJUSTICE

17 A disposition outside the standard range shall be determined and shall
 18 be comprised of confinement or community supervision including posting
 19 a probation bond or a combination thereof. When a judge finds a
 20 manifest injustice and imposes a sentence of confinement exceeding 30
 21 days, the court shall sentence the juvenile to a maximum term, and the
 22 provisions of ((RCW 13.40.030(2))) section 26 of this act shall be used
 23 to determine the range.

24 **Sec. 18.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended
 25 to read as follows:

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

34 **Sec. 19.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to read
 35 as follows:

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

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

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

12 (2) Notice of the detention hearing, stating the time, place, and
13 purpose of the hearing, (~~and~~) stating the right to counsel, and
14 requiring attendance, shall be given to the parent, guardian, or
15 custodian if such person can be found and shall also be given to the
16 juvenile if over twelve years of age.

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

20 (4) The court shall, based upon the allegations in the information,
21 determine whether the case is properly before it or whether the case
22 should be treated as a diversion case under RCW 13.40.080. If the case
23 is not properly before the court the juvenile shall be ordered
24 released.

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

30 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
31 ~~hereafter amended,~~) the court shall impose the most appropriate of the
32 following conditions or, if necessary, any combination of the following
33 conditions:

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

36 (b) Place restrictions on the travel of the juvenile during the
37 period of release;

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

1 (d) Impose any condition other than detention deemed reasonably
2 necessary to assure appearance as required;

3 (e) Require that the juvenile return to detention during specified
4 hours; or

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

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

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

14 **Sec. 20.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
15 as follows:

16 (1) All actions under this chapter shall be commenced and tried in
17 the county where any element of the offense was committed except as
18 otherwise specially provided by statute. In cases in which diversion
19 is provided by statute, venue is in the county in which the juvenile
20 resides or in the county in which any element of the offense was
21 committed.

22 (2) For juveniles whose standard range disposition would include
23 confinement in excess of thirty days, the case and copies of all legal
24 and social documents pertaining thereto may in the discretion of the
25 court be transferred to the county where the juvenile resides for a
26 disposition hearing. All costs and arrangements for care and
27 transportation of the juvenile in custody shall be the responsibility
28 of the receiving county as of the date of the transfer of the juvenile
29 to such county, unless the counties otherwise agree.

30 (3) The case and copies of all legal and social documents
31 pertaining thereto may in the discretion of the court be transferred to
32 the county in which the juvenile resides for supervision and
33 enforcement of the disposition order. The court of the receiving
34 county has jurisdiction to modify and enforce the disposition order.

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

1 **Sec. 21.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended
2 to read as follows:

3 (1) A diversion agreement shall be a contract between a juvenile
4 accused of an offense and a diversionary unit whereby the juvenile
5 agrees to fulfill certain conditions in lieu of prosecution. Such
6 agreements may be entered into only after the prosecutor, or probation
7 counselor pursuant to this chapter, has determined that probable cause
8 exists to believe that a crime has been committed and that the juvenile
9 committed it. Such agreements shall be entered into as expeditiously
10 as possible.

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

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

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

18 (c) Attendance at (~~up to ten hours of~~) counseling and/or (~~up to~~
19 ~~twenty hours of~~) educational or informational sessions at a community
20 agency for a specified period of time as determined by the diversion
21 unit. The educational or informational sessions may include sessions
22 relating to respect for self, others, and authority; victim awareness;
23 accountability; self-worth; responsibility; work ethics; good
24 citizenship; and life skills. For purposes of this section, "community
25 agency" may also mean a community-based nonprofit organization, if
26 approved by the diversion unit. The state shall not be liable for
27 costs resulting from the diversionary unit exercising the option to
28 permit diversion agreements to mandate attendance at (~~up to ten hours~~
29 ~~of~~) counseling and/or (~~up to twenty hours of~~) educational or
30 informational sessions;

31 (d) A fine, not to exceed one hundred dollars. In determining the
32 amount of the fine, the diversion unit shall consider only the
33 juvenile's financial resources and whether the juvenile has the means
34 to pay the fine. The diversion unit shall not consider the financial
35 resources of the juvenile's parents, guardian, or custodian in
36 determining the fine to be imposed; and

37 (e) Requirements to remain during specified hours at home, school,
38 or work, and restrictions on leaving or entering specified geographical
39 areas.

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

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

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

19 (6) Diverees and potential diverees shall be afforded due process
20 in all contacts with a diversionary unit regardless of whether the
21 juveniles are accepted for diversion or whether the diversion program
22 is successfully completed. Such due process shall include, but not be
23 limited to, the following:

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

26 (b) Violation of the terms of the agreement shall be the only
27 grounds for termination;

28 (c) No diveree may be terminated from a diversion program without
29 being given a court hearing, which hearing shall be preceded by:

30 (i) Written notice of alleged violations of the conditions of the
31 diversion program; and

32 (ii) Disclosure of all evidence to be offered against the diveree;

33 (d) The hearing shall be conducted by the juvenile court and shall
34 include:

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

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

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

1 (iv) Demonstration by evidence that the diverttee has substantially
2 violated the terms of his or her diversion agreement.

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

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

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

9 (7) The diversion unit shall, subject to available funds, be
10 responsible for providing interpreters when juveniles need interpreters
11 to effectively communicate during diversion unit hearings or
12 negotiations.

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

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

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

27 The juvenile shall be advised that a diversion agreement shall
28 constitute a part of the juvenile's criminal history as defined by RCW
29 13.40.020(9). A signed acknowledgment of such advisement shall be
30 obtained from the juvenile, and the document shall be maintained by the
31 diversionary unit together with the diversion agreement, and a copy of
32 both documents shall be delivered to the prosecutor if requested by the
33 prosecutor. The supreme court shall promulgate rules setting forth the
34 content of such advisement in simple language.

35 (11) When a juvenile enters into a diversion agreement, the
36 juvenile court may receive only the following information for
37 dispositional purposes:

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

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

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

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

4 (e) The facts of the alleged offense.

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

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

37 (14) A diversion unit may supervise the fulfillment of a diversion
38 agreement entered into before the juvenile's eighteenth birthday and

1 which includes a period extending beyond the divertee's eighteenth
2 birthday.

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

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

18 **Sec. 22.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to read
19 as follows:

20 (1) The prosecutor, respondent, or the court on its own motion may,
21 before a hearing on the information on its merits, file a motion
22 requesting the court to transfer the respondent for adult criminal
23 prosecution and the matter shall be set for a hearing on the question
24 of declining jurisdiction. Unless waived by the court, the parties,
25 and their counsel, a decline hearing shall be held ((where:

26 ~~(a) The respondent is fifteen, sixteen, or seventeen years of age
27 and the information alleges a class A felony or an attempt,
28 solicitation, or conspiracy to commit a class A felony; or~~

29 ~~(b) The respondent is seventeen years of age and the information
30 alleges assault in the second degree, extortion in the first degree,
31 indecent liberties, child molestation in the second degree, kidnapping
32 in the second degree, or robbery in the second degree)) when: (a) The
33 respondent is fourteen or fifteen years of age, the information alleges
34 a violent or felony sex offense as defined in RCW 9.94A.030, and the
35 offender is not subject to automatic prosecution in adult criminal
36 court under RCW 13.04.030; or (b) the information alleges escape in the
37 first degree and, at the time of the escape, the respondent was serving
38 a minimum juvenile disposition to age twenty-one.~~

1 (2) The court after a decline hearing may order the case
2 transferred for adult criminal prosecution upon a finding that the
3 declination would be in the best interest of the juvenile or the
4 public. The court shall consider the relevant reports, facts,
5 opinions, and arguments presented by the parties and their counsel.

6 (3) When the respondent is transferred for criminal prosecution or
7 retained for prosecution in juvenile court, the court shall set forth
8 in writing its finding which shall be supported by relevant facts and
9 opinions produced at the hearing.

10 **Sec. 23.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
11 read as follows:

12 (1) The respondent shall be advised of the allegations in the
13 information and shall be required to plead guilty or not guilty to the
14 allegation(s). The state or the respondent may make preliminary
15 motions up to the time of the plea.

16 (2) If the respondent pleads guilty, the court may proceed with
17 disposition or may continue the case for a dispositional hearing. If
18 the respondent denies guilt, an adjudicatory hearing date shall be set.
19 The court shall notify the parent, guardian, or custodian who has
20 custody of any juvenile described in the charging document of the date,
21 time, and place of the dispositional or adjudicatory hearing, and
22 require attendance.

23 (3) At the adjudicatory hearing it shall be the burden of the
24 prosecution to prove the allegations of the information beyond a
25 reasonable doubt.

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

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

31 (6) If the respondent is found guilty the court may immediately
32 proceed to disposition or may continue the case for a dispositional
33 hearing. Notice of the time and place of the continued hearing may be
34 given in open court. If notice is not given in open court to a party,
35 the party and the parent, guardian, or custodian who has custody of the
36 juvenile shall be notified by mail of the time and place of the
37 continued hearing.

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

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

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

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

14 **Sec. 24.** RCW 13.40.150 and 1995 c 268 s 5 are each amended to read
15 as follows:

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

26 (2) For purposes of disposition:

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

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

30 (c) In no event may a disposition for a violation include
31 confinement.

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

35 (a) Consider the facts supporting the allegations of criminal
36 conduct by the respondent;

37 (b) Consider information and arguments offered by parties and their
38 counsel;

1 (c) Consider any predisposition reports;

2 (d) Consult with the respondent's parent, guardian, or custodian on
3 the appropriateness of dispositional options under consideration and
4 afford the respondent and the respondent's parent, guardian, or
5 custodian an opportunity to speak in the respondent's behalf;

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

8 (f) Determine the amount of restitution owing to the victim, if
9 any;

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

12 (h) Consider whether or not any of the following mitigating factors
13 exist:

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

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

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

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

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

26 (i) Consider whether or not any of the following aggravating
27 factors exist:

28 (i) In the commission of the offense, or in flight therefrom, the
29 respondent inflicted or attempted to inflict serious bodily injury to
30 another;

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

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

34 (iv) The respondent has a recent criminal history or has failed to
35 comply with conditions of a recent dispositional order or diversion
36 agreement;

37 (v) The current offense included a finding of sexual motivation
38 pursuant to RCW 13.40.135;

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

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

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

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

12 (a) The sex of the respondent;

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

14 (c) The creed or religion of the respondent or the respondent's
15 family;

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

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

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

23 **Sec. 25.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read
24 as follows:

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

30 If the court concludes, and enters reasons for its conclusion, that
31 disposition within the standard range would effectuate a manifest
32 injustice the court shall impose a disposition outside the standard
33 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
34 court's finding of manifest injustice shall be supported by clear and
35 convincing evidence.

36 A disposition outside the standard range shall be determinate and
37 shall be comprised of confinement or community supervision, or a
38 combination thereof. When a judge finds a manifest injustice and

1 imposes a sentence of confinement exceeding thirty days, the court
2 shall sentence the juvenile to a maximum term, and the provisions of
3 (~~RCW 13.40.030(2)~~) section 26 of this act shall be used to determine
4 the range. A disposition outside the standard range is appealable
5 under RCW 13.40.230 by the state or the respondent. A disposition
6 within the standard range is not appealable under RCW 13.40.230.

7 (2) Where the respondent is found to be a minor or first offender,
8 the court shall order that the respondent serve a term of community
9 supervision as indicated in option A (~~or option B~~) of schedule D-1,
10 RCW 13.40.0357 except as provided in subsections (5) and (6) of this
11 section. A minor/first offender receiving an option A disposition may
12 also be required to serve 0 to 10 days in confinement. If the court
13 determines that a disposition of community supervision would effectuate
14 a manifest injustice the court may impose another disposition under
15 option (~~C~~) B of schedule D-1, RCW 13.40.0357. Except as provided
16 in subsection (5) of this section, a disposition other than a community
17 supervision may be imposed only after the court enters reasons upon
18 which it bases its conclusions that imposition of community supervision
19 would effectuate a manifest injustice. When a judge finds a manifest
20 injustice and imposes a sentence of confinement exceeding thirty days,
21 the court shall sentence the juvenile to a maximum term, and the
22 provisions of (~~RCW 13.40.030(2)~~) section 26 of this act shall be used
23 to determine the range. The court's finding of manifest injustice
24 shall be supported by clear and convincing evidence.

25 Except for disposition of community supervision or a disposition
26 imposed pursuant to subsection (5) of this section, a disposition may
27 be appealed as provided in RCW 13.40.230 by the state or the
28 respondent. A disposition of community supervision or a disposition
29 imposed pursuant to subsection (5) of this section may not be appealed
30 under RCW 13.40.230.

31 (3) Where a respondent is found to have committed an offense for
32 which the respondent declined to enter into a diversion agreement, the
33 court shall impose a term of community supervision limited to the
34 conditions allowed in a diversion agreement as provided in RCW
35 13.40.080(2).

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

37 (a) The court shall impose a determinate disposition within the
38 standard range(~~(s)~~) for such offense, as indicated in option A of
39 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and

1 (6) of this section. If the standard range includes a term of
2 confinement exceeding thirty days, commitment shall be to the
3 department for the standard range of confinement; or

4 ~~(b) ((If the middle offender has less than 110 points, the court
5 shall impose a determinate disposition of community supervision and/or
6 up to thirty days confinement, as indicated in option B of schedule D-
7 2, RCW 13.40.0357 in which case, if confinement has been imposed, the
8 court shall state either aggravating or mitigating factors as set forth
9 in RCW 13.40.150.))~~ (i) If the middle offender has 110 points or more,

10 the court may impose a disposition under option A and may suspend the
11 disposition and impose a determinate disposition of community
12 supervision for a period of up to one year or the maximum term allowed
13 by the standard range whichever is longer, on the condition that the
14 offender serve up to thirty days of confinement and follow all
15 conditions of community supervision. If confinement has been imposed,
16 the court shall state either aggravating or mitigating factors as set
17 forth in RCW 13.40.150. If the offender violates any condition of the
18 disposition including conditions of a probation bond, the court may
19 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension
20 and order execution of the disposition. The court shall give credit
21 for any confinement time previously served if that confinement was for
22 the offense for which the suspension is being revoked; or

23 (ii) If the respondent is a middle offender with 110 points or more
24 the court may impose the special disposition option under section 27 of
25 this act.

26 (c) Only if the court concludes, and enters reasons for its
27 conclusions, that disposition as provided in subsection (4)(a) or (b)
28 of this section would effectuate a manifest injustice, the court shall
29 sentence the juvenile to a maximum term, and the provisions of ((RCW
30 13.40.030(2)) section 26 of this act shall be used to determine the
31 range. The court's finding of manifest injustice shall be supported by
32 clear and convincing evidence.

33 (d) A disposition pursuant to subsection (4)(c) of this section is
34 appealable under RCW 13.40.230 by the state or the respondent. A
35 disposition pursuant to subsection (4) (a) or (b) of this section is
36 not appealable under RCW 13.40.230.

37 (5) When a serious, middle, or minor first offender is found to
38 have committed a sex offense, other than a sex offense that is also a
39 serious violent offense as defined by RCW 9.94A.030, and has no history

1 of a prior sex offense, the court, on its own motion or the motion of
2 the state or the respondent, may order an examination to determine
3 whether the respondent is amenable to treatment.

4 The report of the examination shall include at a minimum the
5 following: The respondent's version of the facts and the official
6 version of the facts, the respondent's offense history, an assessment
7 of problems in addition to alleged deviant behaviors, the respondent's
8 social, educational, and employment situation, and other evaluation
9 measures used. The report shall set forth the sources of the
10 evaluator's information.

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

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

15 ((~~a~~))(i) Frequency and type of contact between the offender and
16 therapist;

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

19 (iii) Monitoring plans, including any requirements regarding living
20 conditions, lifestyle requirements, and monitoring by family members,
21 legal guardians, or others;

22 (iv) Anticipated length of treatment; and

23 (v) Recommended crime-related prohibitions.

24 The court on its own motion may order, or on a motion by the state
25 shall order, a second examination regarding the offender's amenability
26 to treatment. The evaluator shall be selected by the party making the
27 motion. The defendant shall pay the cost of any second examination
28 ordered unless the court finds the defendant to be indigent in which
29 case the state shall pay the cost.

30 After receipt of reports of the examination, the court shall then
31 consider whether the offender and the community will benefit from use
32 of this special sex offender disposition alternative and consider the
33 victim's opinion whether the offender should receive a treatment
34 disposition under this section. If the court determines that this
35 special sex offender disposition alternative is appropriate, then the
36 court shall impose a determinate disposition within the standard range
37 for the offense, ((and)) or if the court concludes, and enters reasons
38 for its conclusion, that such disposition would effectuate a manifest
39 injustice, the court shall impose a disposition pursuant to option B of

1 schedule D-1, option C of schedule D-2, or option B of schedule D-3 as
2 appropriate.

3 For either a standard range disposition or a manifest injustice
4 disposition the court may suspend the execution of the disposition and
5 place the offender on community supervision for up to two years.

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

10 ((b)) (i) Devote time to a specific education, employment, or
11 occupation;

12 (ii) Undergo available outpatient sex offender treatment for up to
13 two years, or inpatient sex offender treatment not to exceed the
14 standard range of confinement for that offense. A community mental
15 health center may not be used for such treatment unless it has an
16 appropriate program designed for sex offender treatment. The
17 respondent shall not change sex offender treatment providers or
18 treatment conditions without first notifying the prosecutor, the
19 probation counselor, and the court, and shall not change providers
20 without court approval after a hearing if the prosecutor or probation
21 counselor object to the change;

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

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

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

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

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

33 (viii) Comply with the conditions of any court-ordered probation
34 bond.

35 The sex offender treatment provider shall submit quarterly reports
36 on the respondent's progress in treatment to the court and the parties.
37 The reports shall reference the treatment plan and include at a minimum
38 the following: Dates of attendance, respondent's compliance with
39 requirements, treatment activities, the respondent's relative progress

1 in treatment, and any other material specified by the court at the time
2 of the disposition.

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

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

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

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

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

37 (7) Whenever a juvenile offender is entitled to credit for time
38 spent in detention prior to a dispositional order, the dispositional

1 order shall specifically state the number of days of credit for time
2 served.

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

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

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

11 When the court finds a manifest injustice, imposes a sentence of
12 confinement exceeding thirty days, and sets the maximum term, the
13 department shall determine the range subject to the following
14 limitations:

15 (1) When the maximum term in the range is ninety days or less, the
16 minimum term in the range may be no less than fifty percent of the
17 maximum term in the range;

18 (2) When the maximum term in the range is greater than ninety days
19 but not greater than one year, the minimum term in the range may be no
20 less than seventy-five percent of the maximum term in the range; and

21 (3) When the maximum term in the range is more than one year, the
22 minimum term in the range may be no less than eighty percent of the
23 maximum term in the range.

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

26 (1) When a middle offender with one hundred ten points or more is
27 found to have committed an offense that is not a violent or sex
28 offense, the court, on its own motion or the motion of the state or the
29 respondent if the evidence shows that the offender may be chemically
30 dependent, may order an examination by a chemical dependency counselor
31 from a chemical dependency treatment facility approved under chapter
32 70.96A RCW to determine if the youth is chemically dependent and
33 amenable to treatment.

34 (2) The report of the examination shall include at a minimum the
35 following: The respondent's version of the facts and the official
36 version of the facts, the respondent's offense history, an assessment
37 of drug-alcohol problems and previous treatment attempts, the

1 respondent's social, educational, and employment situation, and other
2 evaluation measures used. The report shall set forth the sources of
3 the examiner's information.

4 (3) The examiner shall assess and report regarding the respondent's
5 amenability to treatment and relative risk to the community. A
6 proposed treatment plan shall be provided and shall include, at a
7 minimum:

8 (a) Whether inpatient and/or outpatient treatment is recommended;

9 (b) Availability of appropriate treatment;

10 (c) Monitoring plans, including any requirements regarding living
11 conditions, lifestyle requirements, and monitoring by family members,
12 legal guardians, or others;

13 (d) Anticipated length of treatment;

14 (e) Recommended crime-related prohibitions; and

15 (f) Whether the respondent is amenable to treatment.

16 (4) The court on its own motion may order, or on a motion by the
17 state shall order, a second examination regarding the offender's
18 amenability to treatment. The evaluator shall be selected by the party
19 making the motion. The defendant shall pay the cost of any examination
20 ordered under this subsection (4) or subsection (1) of this section
21 unless the court finds that the offender is indigent and no third party
22 insurance coverage is available, in which case the state shall pay the
23 cost.

24 (5)(a) After receipt of reports of the examination, the court shall
25 then consider whether the offender and the community will benefit from
26 use of this chemical dependent disposition alternative and consider the
27 victim's opinion whether the offender should receive a treatment
28 disposition under this section.

29 (b) If the court determines that this chemical dependent
30 disposition alternative is appropriate, then the court shall impose the
31 standard range for the offense, suspend execution of the disposition,
32 and place the offender on community supervision for up to one year. As
33 a condition of the suspended disposition, the court shall require the
34 offender to undergo available outpatient drug/alcohol treatment and/or
35 inpatient drug/alcohol treatment. For purposes of this section, the
36 sum of confinement time and inpatient treatment may not exceed ninety
37 days. As a condition of the suspended disposition, the court may
38 impose conditions of community supervision and other sanctions,
39 including up to thirty days of confinement, one hundred fifty hours of

1 community service, and payment of legal financial obligations and
2 restitution.

3 (6) The drug/alcohol treatment provider shall submit monthly
4 reports on the respondent's progress in treatment to the court and the
5 parties. The reports shall reference the treatment plan and include at
6 a minimum the following: Dates of attendance, respondent's compliance
7 with requirements, treatment activities, the respondent's relative
8 progress in treatment, and any other material specified by the court at
9 the time of the disposition.

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

12 If the offender violates any condition of the disposition or the
13 court finds that the respondent is failing to make satisfactory
14 progress in treatment, the court may revoke the suspension and order
15 execution of the sentence. The court shall give credit for any
16 confinement time previously served if that confinement was for the
17 offense for which the suspension is being revoked.

18 (7) For purposes of this section, "victim" means any person who has
19 sustained emotional, psychological, physical, or financial injury to
20 person or property as a direct result of the crime charged.

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

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

28 **Sec. 28.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended
29 to read as follows:

30 (1) For purposes of this chapter:

31 (a) "Juvenile justice or care agency" means any of the following:
32 Police, diversion units, court, prosecuting attorney, defense attorney,
33 detention center, attorney general, the department of social and health
34 services and its contracting agencies, schools; and, in addition,
35 persons or public or private agencies having children committed to
36 their custody;

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

4 (c) "Social file" means the juvenile court file containing the
5 records and reports of the probation counselor;

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

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

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

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

21 (b) An agency shall take reasonable steps to assure the security of
22 its records and prevent tampering with them; and

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

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

29 (5) Any person who has reasonable cause to believe information
30 concerning that person is included in the records of a juvenile justice
31 or care agency and who has been denied access to those records by the
32 agency may make a motion to the court for an order authorizing that
33 person to inspect the juvenile justice or care agency record concerning
34 that person. The court shall grant the motion to examine records
35 unless it finds that in the interests of justice or in the best
36 interests of the juvenile the records or parts of them should remain
37 confidential.

38 (6) A juvenile, or his or her parents, or any person who has
39 reasonable cause to believe information concerning that person is

1 included in the records of a juvenile justice or care agency may make
2 a motion to the court challenging the accuracy of any information
3 concerning the moving party in the record or challenging the continued
4 possession of the record by the agency. If the court grants the
5 motion, it shall order the record or information to be corrected or
6 destroyed.

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

11 (8) The court may permit inspection of records by, or release of
12 information to, any clinic, hospital, or agency which has the subject
13 person under care or treatment. The court may also permit inspection
14 by or release to individuals or agencies, including juvenile justice
15 advisory committees of county law and justice councils, engaged in
16 legitimate research for educational, scientific, or public purposes.
17 The court may also permit inspection of, or release of information
18 from, records which have been sealed pursuant to RCW 13.50.050(11).
19 The court shall release to the sentencing guidelines commission records
20 needed for its research and data-gathering functions under RCW
21 9.94A.040, 13.40.027, 13.40.030, and other statutes. Access to records
22 or information for research purposes shall be permitted only if the
23 anonymity of all persons mentioned in the records or information will
24 be preserved. Each person granted permission to inspect juvenile
25 justice or care agency records for research purposes shall present a
26 notarized statement to the court stating that the names of juveniles
27 and parents will remain confidential.

28 (9) Juvenile detention facilities shall release records to the
29 juvenile disposition standards commission under RCW 13.40.025 upon
30 request. The commission shall not disclose the names of any juveniles
31 or parents mentioned in the records without the named individual's
32 written permission.

33 **Sec. 29.** RCW 13.50.050 and 1992 c 188 s 7 are each amended to read
34 as follows:

35 (1) This section governs records relating to the commission of
36 juvenile offenses, including records relating to diversions.

1 (2) The official juvenile court file of any alleged or proven
2 juvenile offender shall be open to public inspection, unless sealed
3 pursuant to subsection (11) of this section.

4 (3) All records other than the official juvenile court file are
5 confidential and may be released only as provided in this section, RCW
6 13.50.010, 13.40.215, and 4.24.550.

7 (4) Except as otherwise provided in this section and RCW 13.50.010,
8 records retained or produced by any juvenile justice or care agency may
9 be released to other participants in the juvenile justice or care
10 system only when an investigation or case involving the juvenile in
11 question is being pursued by the other participant or when that other
12 participant is assigned the responsibility for supervising the
13 juvenile.

14 (5) Except as provided in RCW 4.24.550, information not in an
15 official juvenile court file concerning a juvenile or a juvenile's
16 family may be released to the public only when that information could
17 not reasonably be expected to identify the juvenile or the juvenile's
18 family.

19 (6) Notwithstanding any other provision of this chapter, the
20 release, to the juvenile or his or her attorney, of law enforcement and
21 prosecuting attorneys' records pertaining to investigation, diversion,
22 and prosecution of juvenile offenses shall be governed by the rules of
23 discovery and other rules of law applicable in adult criminal
24 investigations and prosecutions.

25 (7) The juvenile court and the prosecutor may set up and maintain
26 a central record-keeping system which may receive information on all
27 alleged juvenile offenders against whom a complaint has been filed
28 pursuant to RCW 13.40.070 whether or not their cases are currently
29 pending before the court. The central record-keeping system may be
30 computerized. If a complaint has been referred to a diversion unit,
31 the diversion unit shall promptly report to the juvenile court or the
32 prosecuting attorney when the juvenile has agreed to diversion. An
33 offense shall not be reported as criminal history in any central
34 record-keeping system without notification by the diversion unit of the
35 date on which the offender agreed to diversion.

36 (8) Upon request of the victim of a crime or the victim's immediate
37 family, the identity of an alleged or proven juvenile offender alleged
38 or found to have committed a crime against the victim and the identity
39 of the alleged or proven juvenile offender's parent, guardian, or

1 custodian and the circumstance of the alleged or proven crime shall be
2 released to the victim of the crime or the victim's immediate family.

3 (9) Subject to the rules of discovery applicable in adult criminal
4 prosecutions, the juvenile offense records of an adult criminal
5 defendant or witness in an adult criminal proceeding shall be released
6 upon request to prosecution and defense counsel after a charge has
7 actually been filed. The juvenile offense records of any adult
8 convicted of a crime and placed under the supervision of the adult
9 corrections system shall be released upon request to the adult
10 corrections system.

11 (10) In any case in which an information has been filed pursuant to
12 RCW 13.40.100 or a complaint has been filed with the prosecutor and
13 referred for diversion pursuant to RCW 13.40.070, the person the
14 subject of the information or complaint may file a motion with the
15 court to have the court vacate its order and findings, if any, and,
16 subject to subsection (24) of this section, order the sealing of the
17 official juvenile court file, the social file, and records of the court
18 and of any other agency in the case.

19 (11) The court shall grant the motion to seal records made pursuant
20 to subsection (10) of this section if it finds that:

21 (a) Two years have elapsed from the later of: (i) Final discharge
22 of the person from the supervision of any agency charged with
23 supervising juvenile offenders; or (ii) from the entry of a court order
24 relating to the commission of a juvenile offense or a criminal offense;

25 (b) No proceeding is pending against the moving party seeking the
26 conviction of a juvenile offense or a criminal offense; and

27 (c) No proceeding is pending seeking the formation of a diversion
28 agreement with that person.

29 (12) The person making a motion pursuant to subsection (10) of this
30 section shall give reasonable notice of the motion to the prosecution
31 and to any person or agency whose files are sought to be sealed.

32 (13) If the court grants the motion to seal made pursuant to
33 subsection (10) of this section, it shall, subject to subsection (24)
34 of this section, order sealed the official juvenile court file, the
35 social file, and other records relating to the case as are named in the
36 order. Thereafter, the proceedings in the case shall be treated as if
37 they never occurred, and the subject of the records may reply
38 accordingly to any inquiry about the events, records of which are
39 sealed. Any agency shall reply to any inquiry concerning confidential

1 or sealed records that records are confidential, and no information can
2 be given about the existence or nonexistence of records concerning an
3 individual.

4 (14) Inspection of the files and records included in the order to
5 seal may thereafter be permitted only by order of the court upon motion
6 made by the person who is the subject of the information or complaint,
7 except as otherwise provided in RCW 13.50.010(8) and subsection (24) of
8 this section.

9 (15) Any adjudication of a juvenile offense or a crime subsequent
10 to sealing has the effect of nullifying the sealing order. Any
11 conviction for any adult felony subsequent to the sealing has the
12 effect of nullifying the sealing order for the purposes of chapter
13 9.94A RCW for any juvenile adjudication of guilt for a class A offense,
14 a violent offense, or a sex offense as defined in RCW 9.94A.030.

15 (16) In any case in which an information has been filed pursuant to
16 RCW 13.40.100 or a complaint has been filed with the prosecutor and
17 referred for diversion pursuant to RCW 13.40.070, the person who is the
18 subject of the information or complaint may file a motion with the
19 court to have the court vacate its order and findings, if any, and,
20 subject to subsection (24) of this section, order the destruction of
21 the official juvenile court file, the social file, and records of the
22 court and of any other agency in the case.

23 (17) The court may grant the motion to destroy records made
24 pursuant to subsection (16) of this section if it finds:

25 (a) The person making the motion is at least twenty-three years of
26 age;

27 (b) The person has not subsequently been convicted of a felony;

28 (c) No proceeding is pending against that person seeking the
29 conviction of a criminal offense; and

30 (d) The person has never been found guilty of a serious offense.

31 (18) A person eighteen years of age or older whose criminal history
32 consists of only one referral for diversion may request that the court
33 order the records in that case destroyed. The request shall be
34 granted, subject to subsection (24) of this section, if the court finds
35 that two years have elapsed since completion of the diversion
36 agreement.

37 (19) If the court grants the motion to destroy records made
38 pursuant to subsection (16) or (18) of this section, it shall, subject
39 to subsection (24) of this section, order the official juvenile court

1 file, the social file, and any other records named in the order to be
2 destroyed.

3 (20) The person making the motion pursuant to subsection (16) or
4 (18) of this section shall give reasonable notice of the motion to the
5 prosecuting attorney and to any agency whose records are sought to be
6 destroyed.

7 (21) Any juvenile to whom the provisions of this section may apply
8 shall be given written notice of his or her rights under this section
9 at the time of his or her disposition hearing or during the diversion
10 process.

11 (22) Nothing in this section may be construed to prevent a crime
12 victim or a member of the victim's family from divulging the identity
13 of the alleged or proven juvenile offender or his or her family when
14 necessary in a civil proceeding.

15 (23) Any juvenile justice or care agency may, subject to the
16 limitations in subsection (24) of this section and subparagraphs (a)
17 and (b) of this subsection, develop procedures for the routine
18 destruction of records relating to juvenile offenses and diversions.

19 (a) Records may be routinely destroyed only when the person the
20 subject of the information or complaint has attained twenty-three years
21 of age or older, or is eighteen years of age or older and his or her
22 criminal history consists entirely of one diversion agreement and two
23 years have passed since completion of the agreement.

24 (b) The court may not routinely destroy the official juvenile court
25 file or recordings or transcripts of any proceedings.

26 (24) No identifying information held by the Washington state patrol
27 in accordance with chapter 43.43 RCW is subject to destruction or
28 sealing under this section. For the purposes of this subsection,
29 identifying information includes photographs, fingerprints, palmprints,
30 soleprints, toeprints and any other data that identifies a person by
31 physical characteristics, name, birthdate or address, but does not
32 include information regarding criminal activity, arrest, charging,
33 diversion, conviction or other information about a person's treatment
34 by the criminal justice system or about the person's behavior.

35 (25) Information identifying child victims under age eighteen who
36 are victims of sexual assaults by juvenile offenders is confidential
37 and not subject to release to the press or public without the
38 permission of the child victim or the child's legal guardian.
39 Identifying information includes the child victim's name, addresses,

1 location, photographs, and in cases in which the child victim is a
2 relative of the alleged perpetrator, identification of the relationship
3 between the child and the alleged perpetrator. Information identifying
4 a child victim of sexual assault may be released to law enforcement,
5 prosecutors, judges, defense attorneys, or private or governmental
6 agencies that provide services to the child victim of sexual assault.

7 NEW SECTION. **Sec. 30.** A new section is added to chapter 28A.175
8 RCW to read as follows:

9 A school may contract with public or private entities to provide
10 educational services for students who have been adjudicated of juvenile
11 offenses particularly when those students have truancy problems or have
12 been suspended or expelled, are academically at-risk, or have been
13 subject to disciplinary actions due to behavior problems.

14 NEW SECTION. **Sec. 31.** A new section is added to chapter 28A.225
15 RCW to read as follows:

16 References to juvenile court in this chapter mean, in addition to
17 the juvenile court of the superior court, courts of limited
18 jurisdiction that have acquired jurisdiction pursuant to RCW
19 13.04.030(1)(e)(iv) and section 10 of this act over juveniles who
20 violate the provisions of this chapter. If a court of limited
21 jurisdiction has jurisdiction over juveniles who violate this chapter,
22 that court also has jurisdiction over parents charged with violations
23 of this chapter.

24 **Sec. 32.** RCW 35.20.030 and 1993 c 83 s 3 are each amended to read
25 as follows:

26 The municipal court shall have jurisdiction to try violations of
27 all city ordinances and all other actions brought to enforce or recover
28 license penalties or forfeitures declared or given by any such
29 ordinances. It is empowered to forfeit cash bail or bail bonds and
30 issue execution thereon, to hear and determine all causes, civil or
31 criminal, arising under such ordinances, and to pronounce judgment in
32 accordance therewith: PROVIDED, That for a violation of the criminal
33 provisions of an ordinance no greater punishment shall be imposed than
34 a fine of five thousand dollars or imprisonment in the city jail not to
35 exceed one year, or both such fine and imprisonment, but the punishment
36 for any criminal ordinance shall be the same as the punishment provided

1 in state law for the same crime. The municipal court shall also have
2 jurisdiction over juvenile offenses prosecuted pursuant to chapter
3 13.40 RCW if the court has acquired jurisdiction pursuant to RCW
4 13.04.030(1)(e)(iv) and section 10 of this act. All civil and criminal
5 proceedings in municipal court, and judgments rendered therein, shall
6 be subject to review in the superior court by writ of review or on
7 appeal: PROVIDED, That an appeal from the court's determination or
8 order in a traffic infraction proceeding may be taken only in
9 accordance with RCW 46.63.090(5). Costs in civil and criminal cases
10 may be taxed as provided in district courts.

11 **Sec. 33.** RCW 72.01.410 and 1994 c 220 s 1 are each amended to read
12 as follows:

13 (1) Whenever any child under the age of eighteen is convicted in
14 the courts of this state of a crime amounting to a felony, and is
15 committed for a term of confinement in a correctional institution
16 wherein adults are confined, the secretary of corrections, after making
17 an independent assessment and evaluation of the child and determining
18 that the needs and correctional goals for the child could better be met
19 by the programs and housing environment provided by the juvenile
20 correctional institution, with the consent of the secretary of social
21 and health services, may transfer such child to a juvenile correctional
22 institution, or to such other institution as is now, or may hereafter
23 be authorized by law to receive such child, until such time as the
24 child arrives at the age of twenty-one years, whereupon the child shall
25 be returned to the institution of original commitment. Retention
26 within a juvenile detention facility or return to an adult correctional
27 facility shall regularly be reviewed by the secretary of corrections
28 and the secretary of social and health services with a determination
29 made based on the level of maturity and sophistication of the
30 individual, the behavior and progress while within the juvenile
31 detention facility, security needs, and the program/treatment
32 alternatives which would best prepare the individual for a successful
33 return to the community. Notice of such transfers shall be given to
34 the clerk of the committing court and the parents, guardian, or next of
35 kin of such child, if known.

36 (2) Juveniles under age sixteen who are automatically prosecuted as
37 adults under RCW 13.04.030 and committed to the department of
38 corrections may be transferred to the department of social and health

1 services for housing without an independent assessment and evaluation.
2 Those juveniles must be transferred to the department of corrections
3 for housing at age eighteen unless the secretary of the department of
4 corrections and department of social and health services agree to
5 continue housing a juvenile in juvenile institutions pursuant to
6 subsection (1) of this section. Juvenile offenders under age sixteen
7 who are convicted as adults may be housed in department of corrections
8 facilities if housing them in juvenile institutions poses a security
9 risk for others or themselves. If the department of corrections has
10 the funding and beds available to house juvenile offenders under age
11 sixteen in adult corrections facilities separated from adult offenders
12 over age eighteen, then the younger offenders may be housed in the
13 department of corrections.

14 (3) Sixteen and seventeen year old juvenile offenders must be
15 housed in adult corrections facilities subject to subsection (1) of
16 this section. The department must make reasonable efforts to house
17 those juveniles in housing units separated from adult offenders who are
18 much older, more violent or predatory, or larger in stature, subject to
19 security problems posed by individual juvenile offenders.

20 **Sec. 34.** RCW 72.09.300 and 1994 sp.s. c 7 s 542 are each amended
21 to read as follows:

22 (1) Every county legislative authority shall by resolution or
23 ordinance establish a local law and justice council. The county
24 legislative authority shall determine the size and composition of the
25 council, which shall include the county sheriff and a representative of
26 the municipal police departments within the county, the county
27 prosecutor and a representative of the municipal prosecutors within the
28 county, a representative of the city legislative authorities within the
29 county, a representative of the county's superior, juvenile, district,
30 and municipal courts, the county jail administrator, the county clerk,
31 the county risk manager, and the secretary of corrections. Officials
32 designated may appoint representatives.

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

36 (3) The local law and justice council shall develop a local law and
37 justice plan for the county. The council shall design the elements and
38 scope of the plan, subject to final approval by the county legislative

1 authority. The general intent of the plan shall include seeking means
2 to maximize local resources including personnel and facilities, reduce
3 duplication of services, and share resources between local and state
4 government in order to accomplish local efficiencies without
5 diminishing effectiveness. The plan shall also include a section on
6 jail management. This section may include the following elements:

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

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

10 (c) A description of current jail resources;

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

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

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

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

20 (h) A proposed plan to collect, synthesize, and disseminate
21 technical information concerning local criminal justice activities,
22 facilities, and procedures;

23 (i) A description of existing and potential services for offenders
24 including employment services, substance abuse treatment, mental health
25 services, and housing referral services.

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

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

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

36 (7) The secretary may adopt rules for the submittal, review, and
37 approval of all requests for assistance made to the department. The
38 secretary may also appoint an advisory committee of local and state
39 government officials to recommend policies and procedures relating to

1 the state and local correctional systems and to assist the department
2 in providing technical assistance to local governments. The committee
3 shall include representatives of the county sheriffs, the police
4 chiefs, the county prosecuting attorneys, the county and city
5 legislative authorities, and the jail administrators. The secretary
6 may contract with other state and local agencies and provide funding in
7 order to provide the assistance requested by counties.

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

13 (9) The council shall establish an advisory committee on juvenile
14 justice proportionality. The council shall appoint the county juvenile
15 court administrator and at least five citizens as advisory committee
16 members. The citizen advisory committee members shall be
17 representative of the county's ethnic and geographic diversity. The
18 advisory committee members shall serve two-year terms and may be
19 reappointed. The duties of the advisory committee include:

20 (a) Monitoring and reporting to the (~~juvenile disposition~~
21 ~~standards~~) sentencing guidelines commission on the proportionality,
22 effectiveness, and cultural relevance of:

23 (i) The rehabilitative services offered by county and state
24 institutions to juvenile offenders; and

25 (ii) The rehabilitative services offered in conjunction with
26 diversions, deferred dispositions, community supervision, and parole;

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

29 (c) By September 1 of each year, beginning with 1995, submit to the
30 (~~juvenile disposition standards~~) sentencing guidelines commission a
31 report summarizing the advisory committee's findings under (a) and (b)
32 of this subsection.

33 NEW SECTION. **Sec. 35.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 36.** Sections 2, 5 through 10, 12, 17, 21, 22,
2 24, 25, 27, 31, and 32 of this act apply only to offenses committed on
3 or after the effective date of this section.

4 NEW SECTION. **Sec. 37.** (1) Sections 14 and 15 of this act shall
5 take effect June 30, 1996.

6 (2) Sections 1 through 3, 5 through 13, and 16 through 36 of this
7 act shall take effect July 1, 1996.

8 (3) Section 4 of this act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and shall take
11 effect immediately.

12 **Sec. 38.** 1995 c 269 s 3603 (uncodified) is amended to read as
13 follows:

14 Section 301 of this act shall take effect June 30, (~~1997~~) 1996.

15 NEW SECTION. **Sec. 39.** Sections 10, 31, and 32 of this act shall
16 expire June 30, 1998.

--- END ---