
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2219

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Appropriations (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 02/01/96.

1 AN ACT Relating to offenders; amending RCW 5.60.060, 9.94A.040,
2 9.94A.060, 9.94A.140, 9.94A.145, 9.94A.390, 13.40.010, 13.40.025,
3 13.40.027, 13.40.030, 13.40.0357, 13.40.045, 13.40.050, 13.40.060,
4 13.40.080, 13.40.110, 13.40.125, 13.40.130, 13.40.150, 13.40.160,
5 13.40.190, 13.50.010, 13.50.050, 35.20.030, 72.01.410, and 72.09.300;
6 amending 1995 c 269 s 3603 (uncodified); reenacting and amending RCW
7 9.94A.030, 9.94A.142, 9.94A.320, 9.94A.360, 13.04.030, and 13.40.020;
8 adding a new section to chapter 9A.64 RCW; adding a new section to
9 chapter 13.04 RCW; adding new sections to chapter 13.40 RCW; adding a
10 new section to chapter 28A.175 RCW; adding a new section to chapter
11 28A.225 RCW; adding a new section to chapter 72.09 RCW; creating new
12 sections; prescribing penalties; making an appropriation; providing
13 effective dates; providing an expiration date; and declaring an
14 emergency.

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

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

18 (1) A husband shall not be examined for or against his wife,
19 without the consent of the wife, nor a wife for or against her husband

1 without the consent of the husband; nor can either during marriage or
2 afterward, be without the consent of the other, examined as to any
3 communication made by one to the other during marriage. But this
4 exception shall not apply to a civil action or proceeding by one
5 against the other, nor to a criminal action or proceeding for a crime
6 committed by one against the other, nor to a criminal action or
7 proceeding against a spouse if the marriage occurred subsequent to the
8 filing of formal charges against the defendant, nor to a criminal
9 action or proceeding for a crime committed by said husband or wife
10 against any child of whom said husband or wife is the parent or
11 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
12 PROVIDED, That the spouse of a person sought to be detained under
13 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
14 be so informed by the court prior to being called as a witness.

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

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

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

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

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

37 (b) Ninety days after filing an action for personal injuries or
38 wrongful death, the claimant shall be deemed to waive the physician-
39 patient privilege. Waiver of the physician-patient privilege for any

1 one physician or condition constitutes a waiver of the privilege as to
2 all physicians or conditions, subject to such limitations as a court
3 may impose pursuant to court rules.

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

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

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

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

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

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

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Collect," or any derivative thereof, "collect and remit," or
36 "collect and deliver," when used with reference to the department of
37 corrections, means that the department is responsible for monitoring
38 and enforcing the offender's sentence with regard to the legal

1 financial obligation, receiving payment thereof from the offender, and,
2 consistent with current law, delivering daily the entire payment to the
3 superior court clerk without depositing it in a departmental account.

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

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

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

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

21 (6) "Community service" means compulsory service, without
22 compensation, performed for the benefit of the community by the
23 offender.

24 (7) "Community supervision" means a period of time during which a
25 convicted offender is subject to crime-related prohibitions and other
26 sentence conditions imposed by a court pursuant to this chapter or RCW
27 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
28 may include crime-related prohibitions and other conditions imposed
29 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
30 for out-of-state supervision of parolees and probationers, RCW
31 9.95.270, community supervision is the functional equivalent of
32 probation and should be considered the same as probation by other
33 states.

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

36 (9) "Conviction" means an adjudication of guilt pursuant to Titles
37 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
38 acceptance of a plea of guilty.

1 (10) "Court-ordered legal financial obligation" means a sum of
2 money that is ordered by a superior court of the state of Washington
3 for legal financial obligations which may include restitution to the
4 victim, statutorily imposed crime victims' compensation fees as
5 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
6 drug funds, court-appointed attorneys' fees, and costs of defense,
7 fines, and any other financial obligation that is assessed to the
8 offender as a result of a felony conviction. Upon conviction for
9 vehicular assault while under the influence of intoxicating liquor or
10 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
11 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
12 legal financial obligations may also include payment to a public agency
13 of the expense of an emergency response to the incident resulting in
14 the conviction, subject to the provisions in RCW 38.52.430.

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

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

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

37 (13) "Day fine" means a fine imposed by the sentencing judge that
38 equals the difference between the offender's net daily income and the

1 reasonable obligations that the offender has for the support of the
2 offender and any dependents.

3 (14) "Day reporting" means a program of enhanced supervision
4 designed to monitor the defendant's daily activities and compliance
5 with sentence conditions, and in which the defendant is required to
6 report daily to a specific location designated by the department or the
7 sentencing judge.

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

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

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

29 (18) "Drug offense" means:

30 (a) Any felony violation of chapter 69.50 RCW except possession of
31 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
32 controlled substance (RCW 69.50.403);

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

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

39 (19) "Escape" means:

1 (a) Escape in the first degree (RCW 9A.76.110), escape in the
2 second degree (RCW 9A.76.120), willful failure to return from furlough
3 (RCW 72.66.060), willful failure to return from work release (RCW
4 72.65.070), or willful failure to be available for supervision by the
5 department while in community custody (RCW 72.09.310); or

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

9 (20) "Felony traffic offense" means:

10 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
11 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
12 and-run injury-accident (RCW 46.52.020(4)); or

13 (b) 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 felony
15 traffic offense under (a) of this subsection.

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

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

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

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

1 (a) Any felony defined under any law as a class A felony or
2 criminal solicitation of or criminal conspiracy to commit a class A
3 felony;

4 (b) Assault in the second degree;

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

6 (d) Child molestation in the second degree;

7 (e) Controlled substance homicide;

8 (f) Extortion in the first degree;

9 (g) Incest when committed against a child under age fourteen;

10 (h) Indecent liberties;

11 (i) Kidnapping in the second degree;

12 (j) Leading organized crime;

13 (k) Manslaughter in the first degree;

14 (l) Manslaughter in the second degree;

15 (m) Promoting prostitution in the first degree;

16 (n) Rape in the third degree;

17 (o) Robbery in the second degree;

18 (p) Sexual exploitation;

19 (q) Vehicular assault;

20 (r) Vehicular homicide, when proximately caused by the driving of
21 any vehicle by any person while under the influence of intoxicating
22 liquor or any drug as defined by RCW 46.61.502, or by the operation of
23 any vehicle in a reckless manner;

24 (s) Any other class B felony offense with a finding of sexual
25 motivation, as "sexual motivation" is defined under this section;

26 (t) Any other felony with a deadly weapon verdict under RCW
27 9.94A.125;

28 (u) Any felony offense in effect at any time prior to December 2,
29 1993, that is comparable to a most serious offense under this
30 subsection, or any federal or out-of-state conviction for an offense
31 that under the laws of this state would be a felony classified as a
32 most serious offense under this subsection.

33 (24) "Nonviolent offense" means an offense which is not a violent
34 offense.

35 (25) "Offender" means a person who has committed a felony
36 established by state law and is eighteen years of age or older (~~(or)~~).
37 "Offender also means a person who is less than eighteen years of age
38 but whose case has been transferred by the appropriate juvenile court
39 to a criminal court pursuant to RCW 13.40.110 or who is under adult

1 criminal court jurisdiction pursuant to RCW 13.04.030. Throughout this
2 chapter, the terms "offender" and "defendant" are used interchangeably.

3 (26) "Partial confinement" means confinement for no more than one
4 year in a facility or institution operated or utilized under contract
5 by the state or any other unit of government, or, if home detention or
6 work crew has been ordered by the court, in an approved residence, for
7 a substantial portion of each day with the balance of the day spent in
8 the community. Partial confinement includes work release, home
9 detention, work crew, and a combination of work crew and home detention
10 as defined in this section.

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

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

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

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

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

28 (30) "Serious traffic offense" means:

29 (a) Driving while under the influence of intoxicating liquor or any
30 drug (RCW 46.61.502), actual physical control while under the influence
31 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
32 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
33 or

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

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

1 (a) Murder in the first degree, homicide by abuse, murder in the
2 second degree, assault in the first degree, kidnapping in the first
3 degree, or rape in the first degree, assault of a child in the first
4 degree, or an attempt, criminal solicitation, or criminal conspiracy to
5 commit one of these felonies; or

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

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

11 (33) "Sex offense" means:

12 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
13 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
14 criminal attempt, criminal solicitation, or criminal conspiracy to
15 commit such crimes;

16 (b) A felony with a finding of sexual motivation under RCW
17 9.94A.127 or 13.40.135; or

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

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

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

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

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

37 (38) "Violent offense" means:

38 (a) Any of the following felonies, as now existing or hereafter
39 amended: Any felony defined under any law as a class A felony or an

1 attempt to commit a class A felony, criminal solicitation of or
2 criminal conspiracy to commit a class A felony, manslaughter in the
3 first degree, manslaughter in the second degree, indecent liberties if
4 committed by forcible compulsion, kidnapping in the second degree,
5 arson in the second degree, assault in the second degree, assault of a
6 child in the second degree, extortion in the first degree, robbery in
7 the second degree, vehicular assault, and vehicular homicide, when
8 proximately caused by the driving of any vehicle by any person while
9 under the influence of intoxicating liquor or any drug as defined by
10 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~(5) In carrying out its duties under subsection (2) of this~~
37 ~~section, the commission shall give consideration to the existing~~
38 ~~guidelines adopted by the association of superior court judges and the~~

1 Washington association of prosecuting attorneys and the experience
2 gained through use of those guidelines. The commission shall emphasize
3 confinement for the violent offender and alternatives to total
4 confinement for the nonviolent offender.

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

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

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

17 (ii) The intent of the legislature to emphasize confinement for the
18 violent offender and alternatives to confinement for the nonviolent
19 offender.

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

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

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

32 ~~((9) The commission may (a))~~ (e)(i) Serve as a clearinghouse and
33 information center for the collection, preparation, analysis, and
34 dissemination of information on state and local adult and juvenile
35 sentencing practices; ((b)) (ii) develop and maintain a computerized
36 adult and juvenile sentencing information system by individual superior
37 court judge consisting of offender, offense, history, and sentence
38 information entered from judgment and sentence forms for all adult
39 felons; and ((e)) (iii) conduct ongoing research regarding adult and

1 juvenile sentencing guidelines, use of total confinement and
2 alternatives to total confinement, plea bargaining, and other matters
3 relating to the improvement of the adult criminal justice system((-)
4 and the juvenile justice system;

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

10 ~~((11) The commission shall)) (f) Assume the powers and duties of the~~
11 ~~juvenile disposition standards commission after June 30, ((1997-))~~
12 ~~1996;~~

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

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

17 (ii) The capacity of state and local juvenile and adult facilities
18 and resources; and

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

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

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

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

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

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

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

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

1 (1) The commission consists of (~~sixteen~~) twenty voting members,
2 one of whom the governor shall designate as chairperson. With the
3 exception of ex officio voting members, the voting members of the
4 commission shall be appointed by the governor, subject to confirmation
5 by the senate.

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

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

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

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

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

17 (e) Two prosecuting attorneys;

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

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

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

22 (i) (~~Three~~) Four members of the public who are not (~~and have~~
23 ~~never been~~) prosecutors, defense attorneys, judges, or law enforcement
24 officers, one of whom is a crime victim or a crime victims' advocate;

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

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

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

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

1 who is a county official, of the association of Washington cities in
2 respect to the member who is a city official, of the office of crime
3 victims advocacy and other organizations of crime victims in respect to
4 the member who is a crime victim or crime victims' advocate, and of the
5 Washington association of juvenile court administrators in respect to
6 the member who is an administrator of juvenile court services.

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

13 (b) The governor shall stagger the terms of the members appointed
14 under subsection (2)(j) and (k) of this section by appointing one of
15 them for a term of one year, one for a term of two years, and one for
16 a term of three years.

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

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

28 **Sec. 5.** RCW 9.94A.140 and 1995 c 231 s 1 are each amended to read
29 as follows:

30 (1) If restitution is ordered, the court shall determine the amount
31 of restitution due at the sentencing hearing or within one hundred
32 eighty days. The court may continue the hearing beyond the one hundred
33 eighty days for good cause. The court shall then set a minimum monthly
34 payment that the offender is required to make towards the restitution
35 that is ordered. The court should take into consideration the total
36 amount of the restitution owed, the offender's present, past, and
37 future ability to pay, as well as any assets that the offender may
38 have. During the period of supervision, the community corrections

1 officer may examine the offender to determine if there has been a
2 change in circumstances that warrants an amendment of the monthly
3 payment schedule. The community corrections officer may recommend a
4 change to the schedule of payment and shall inform the court of the
5 recommended change and the reasons for the change. The sentencing
6 court may then reset the monthly minimum payments based on the report
7 from the community corrections officer of the change in circumstances.
8 Except as provided in subsection (3) of this section, restitution
9 ordered by a court pursuant to a criminal conviction shall be based on
10 easily ascertainable damages for injury to or loss of property, actual
11 expenses incurred for treatment for injury to persons, and lost wages
12 resulting from injury. Restitution shall not include reimbursement for
13 damages for mental anguish, pain and suffering, or other intangible
14 losses, but may include the costs of counseling reasonably related to
15 the offense. The amount of restitution shall not exceed double the
16 amount of the offender's gain or the victim's loss from the commission
17 of the crime. For the purposes of this section, the offender shall
18 remain under the court's jurisdiction for a maximum term of ten years
19 following the offender's release from total confinement or ten years
20 subsequent to the entry of the judgment and sentence, whichever period
21 is longer. The portion of the sentence concerning restitution may be
22 modified as to amount, terms and conditions during the ten-year period,
23 regardless of the expiration of the offender's term of community
24 supervision and regardless of the statutory maximum for the crime. The
25 court may not reduce the total amount of restitution ordered because
26 the offender may lack the ability to pay the total amount. The
27 offender's compliance with the restitution shall be supervised by the
28 department of corrections.

29 (2) Restitution may be ordered whenever the offender is convicted
30 of an offense which results in injury to any person or damage to or
31 loss of property or as provided in subsection (3) of this section. In
32 addition, restitution may be ordered to pay for an injury, loss, or
33 damage if the offender pleads guilty to a lesser offense or fewer
34 offenses and agrees with the prosecutor's recommendation that the
35 offender be required to pay restitution to a victim of an offense or
36 offenses which are not prosecuted pursuant to a plea agreement.

37 (3) Restitution for the crime of rape of a child in the first,
38 second, or third degree, in which the victim becomes pregnant, shall
39 include: (a) All of the victim's medical expenses that are associated

1 with the rape and resulting pregnancy; and (b) child support for any
2 child born as a result of the rape if child support is ordered pursuant
3 to a civil superior court or administrative order for support for that
4 child. The clerk must forward any restitution payments made on behalf
5 of the victim's child to the Washington state child support registry
6 under chapter 26.23 RCW. Identifying information about the victim and
7 child shall not be included in the order. The defendant shall receive
8 a credit against any obligation owing under the administrative or
9 superior court order for support of the victim's child. For the
10 purposes of this subsection, the offender shall remain under the
11 court's jurisdiction until the defendant has satisfied support
12 obligations under the superior court or administrative order but not
13 longer than a maximum term of twenty-five years following the
14 offender's release from total confinement or twenty-five years
15 subsequent to the entry of the judgment and sentence, whichever period
16 is longer. The sentencing court may not modify the superior court or
17 administrative support order but may modify the portion of the sentence
18 that establishes the overall restitution payment obligation as to
19 amount, terms, and conditions during the twenty-five year period,
20 regardless of the expiration of the offender's term of community
21 supervision and regardless of the statutory maximum for the crime. The
22 court may not reduce the total amount of restitution ordered because
23 the offender may lack the ability to pay the total amount. The
24 department shall supervise the offender's compliance with the
25 restitution ordered under this subsection.

26 (4) In addition to any sentence that may be imposed, a defendant
27 who has been found guilty of an offense involving fraud or other
28 deceptive practice or an organization which has been found guilty of
29 any such offense may be ordered by the sentencing court to give notice
30 of the conviction to the class of persons or to the sector of the
31 public affected by the conviction or financially interested in the
32 subject matter of the offense by mail, by advertising in designated
33 areas or through designated media, or by other appropriate means.

34 ~~((+4))~~ (5) This section does not limit civil remedies or defenses
35 available to the victim or defendant including support enforcement
36 remedies for support ordered under subsection (3) of this section for
37 a child born as a result of a rape of a child victim. The court shall
38 identify in the judgment and sentence the victim or victims entitled to
39 restitution and what amount is due each victim. The state or victim

1 may enforce the court-ordered restitution in the same manner as a
2 judgment in a civil action. Restitution collected through civil
3 enforcement must be paid through the registry of the court and must be
4 distributed proportionately according to each victim's loss when there
5 is more than one victim.

6 **Sec. 6.** RCW 9.94A.142 and 1995 c 231 s 2 and 1995 c 33 s 4 are
7 each reenacted and amended to read as follows:

8 (1) When restitution is ordered, the court shall determine the
9 amount of restitution due at the sentencing hearing or within one
10 hundred eighty days except as provided in subsection (~~((3))~~) (4) of
11 this section. The court may continue the hearing beyond the one
12 hundred eighty days for good cause. The court shall then set a minimum
13 monthly payment that the offender is required to make towards the
14 restitution that is ordered. The court should take into consideration
15 the total amount of the restitution owed, the offender's present, past,
16 and future ability to pay, as well as any assets that the offender may
17 have. During the period of supervision, the community corrections
18 officer may examine the offender to determine if there has been a
19 change in circumstances that warrants an amendment of the monthly
20 payment schedule. The community corrections officer may recommend a
21 change to the schedule of payment and shall inform the court of the
22 recommended change and the reasons for the change. The sentencing
23 court may then reset the monthly minimum payments based on the report
24 from the community corrections officer of the change in circumstances.
25 Except as provided in subsection (3) of this section, restitution
26 ordered by a court pursuant to a criminal conviction shall be based on
27 easily ascertainable damages for injury to or loss of property, actual
28 expenses incurred for treatment for injury to persons, and lost wages
29 resulting from injury. Restitution shall not include reimbursement for
30 damages for mental anguish, pain and suffering, or other intangible
31 losses, but may include the costs of counseling reasonably related to
32 the offense. The amount of restitution shall not exceed double the
33 amount of the offender's gain or the victim's loss from the commission
34 of the crime. For the purposes of this section, the offender shall
35 remain under the court's jurisdiction for a maximum term of ten years
36 following the offender's release from total confinement or ten years
37 subsequent to the entry of the judgment and sentence, whichever period
38 is longer. The portion of the sentence concerning restitution may be

1 modified as to amount, terms and conditions during the ten-year period,
2 regardless of the expiration of the offender's term of community
3 supervision and regardless of the statutory maximum for the crime. The
4 court may not reduce the total amount of restitution ordered because
5 the offender may lack the ability to pay the total amount. The
6 offender's compliance with the restitution shall be supervised by the
7 department of corrections.

8 (2) Restitution shall be ordered whenever the offender is convicted
9 of an offense which results in injury to any person or damage to or
10 loss of property or as provided in subsection (3) of this section
11 unless extraordinary circumstances exist which make restitution
12 inappropriate in the court's judgment and the court sets forth such
13 circumstances in the record. In addition, restitution shall be ordered
14 to pay for an injury, loss, or damage if the offender pleads guilty to
15 a lesser offense or fewer offenses and agrees with the prosecutor's
16 recommendation that the offender be required to pay restitution to a
17 victim of an offense or offenses which are not prosecuted pursuant to
18 a plea agreement.

19 (3) Restitution for the crime of rape of a child in the first,
20 second, or third degree, in which the victim becomes pregnant, shall
21 include: (a) All of the victim's medical expenses that are associated
22 with the rape and resulting pregnancy; and (b) child support for any
23 child born as a result of the rape if child support is ordered pursuant
24 to a civil superior court or administrative order for support for that
25 child. The clerk must forward any restitution payments made on behalf
26 of the victim's child to the Washington state child support registry
27 under chapter 26.23 RCW. Identifying information about the victim and
28 child shall not be included in the order. The defendant shall receive
29 a credit against any obligation owing under the administrative or
30 superior court order for support of the victim's child. For the
31 purposes of this subsection, the offender shall remain under the
32 court's jurisdiction until the defendant has satisfied support
33 obligations under the superior court or administrative order but not
34 longer than a maximum term of twenty-five years following the
35 offender's release from total confinement or twenty-five years
36 subsequent to the entry of the judgment and sentence, whichever period
37 is longer. The sentencing court may not modify the superior court or
38 administrative support order but may modify the portion of the sentence
39 that establishes the overall restitution payment obligation as to

1 amount, terms, and conditions during the twenty-five year period,
2 regardless of the expiration of the offender's term of community
3 supervision and regardless of the statutory maximum for the crime. The
4 court may not reduce the total amount of restitution ordered because
5 the offender may lack the ability to pay the total amount. The
6 department shall supervise the offender's compliance with the
7 restitution ordered under this subsection.

8 (4) Regardless of the provisions of subsections (1) ~~((and))~~, (2),
9 and (3) of this section, the court shall order restitution in all cases
10 where the victim is entitled to benefits under the crime victims'
11 compensation act, chapter 7.68 RCW. If the court does not order
12 restitution and the victim of the crime has been determined to be
13 entitled to benefits under the crime victims' compensation act, the
14 department of labor and industries, as administrator of the crime
15 victims' compensation program, may petition the court within one year
16 of entry of the judgment and sentence for entry of a restitution order.
17 Upon receipt of a petition from the department of labor and industries,
18 the court shall hold a restitution hearing and shall enter a
19 restitution order.

20 ~~((+4))~~ (5) In addition to any sentence that may be imposed, a
21 defendant who has been found guilty of an offense involving fraud or
22 other deceptive practice or an organization which has been found guilty
23 of any such offense may be ordered by the sentencing court to give
24 notice of the conviction to the class of persons or to the sector of
25 the public affected by the conviction or financially interested in the
26 subject matter of the offense by mail, by advertising in designated
27 areas or through designated media, or by other appropriate means.

28 ~~((+5))~~ (6) This section does not limit civil remedies or defenses
29 available to the victim, survivors of the victim, or defendant
30 including support enforcement remedies for support ordered under
31 subsection (3) of this section for a child born as a result of a rape
32 of a child victim. The court shall identify in the judgment and
33 sentence the victim or victims entitled to restitution and what amount
34 is due each victim. The state or victim may enforce the court-ordered
35 restitution in the same manner as a judgment in a civil action.
36 Restitution collected through civil enforcement must be paid through
37 the registry of the court and must be distributed proportionately
38 according to each victim's loss when there is more than one victim.

1 (~~(6)~~) (7) This section shall apply to offenses committed after
2 July 1, 1985.

3 **Sec. 7.** RCW 9.94A.145 and 1995 c 231 s 3 are each amended to read
4 as follows:

5 (1) Whenever a person is convicted of a felony, the court may order
6 the payment of a legal financial obligation as part of the sentence.
7 The court must on either the judgment and sentence or on a subsequent
8 order to pay, designate the total amount of a legal financial
9 obligation and segregate this amount among the separate assessments
10 made for restitution, costs, fines, and other assessments required by
11 law. On the same order, the court is also to set a sum that the
12 offender is required to pay on a monthly basis towards satisfying the
13 legal financial obligation. If the court fails to set the offender
14 monthly payment amount, the department shall set the amount. Upon
15 receipt of an offender's monthly payment, after restitution is
16 satisfied, the county clerk shall distribute the payment proportionally
17 among all other fines, costs, and assessments imposed, unless otherwise
18 ordered by the court.

19 (2) If the court determines that the offender, at the time of
20 sentencing, has the means to pay for the cost of incarceration, the
21 court may require the offender to pay for the cost of incarceration at
22 a rate of fifty dollars per day of incarceration. Payment of other
23 court-ordered financial obligations, including all legal financial
24 obligations and costs of supervision shall take precedence over the
25 payment of the cost of incarceration ordered by the court. All funds
26 recovered from offenders for the cost of incarceration in the county
27 jail shall be remitted to the county and the costs of incarceration in
28 a prison shall be remitted to the department of corrections.

29 (3) The court may add to the judgment and sentence or subsequent
30 order to pay a statement that a notice of payroll deduction is to be
31 immediately issued. If the court chooses not to order the immediate
32 issuance of a notice of payroll deduction at sentencing, the court
33 shall add to the judgment and sentence or subsequent order to pay a
34 statement that a notice of payroll deduction may be issued or other
35 income-withholding action may be taken, without further notice to the
36 offender if a monthly court-ordered legal financial obligation payment
37 is not paid when due, and an amount equal to or greater than the amount
38 payable for one month is owed.

1 If a judgment and sentence or subsequent order to pay does not
2 include the statement that a notice of payroll deduction may be issued
3 or other income-withholding action may be taken if a monthly legal
4 financial obligation payment is past due, the department may serve a
5 notice on the offender stating such requirements and authorizations.
6 Service shall be by personal service or any form of mail requiring a
7 return receipt.

8 (4) All legal financial obligations that are ordered as a result of
9 a conviction for a felony, may also be enforced in the same manner as
10 a judgment in a civil action by the party or entity to whom the legal
11 financial obligation is owed. Restitution collected through civil
12 enforcement must be paid through the registry of the court and must be
13 distributed proportionately according to each victim's loss when there
14 is more than one victim. The judgment and sentence shall identify the
15 party or entity to whom restitution is owed so that the state, party,
16 or entity may enforce the judgment. ((These)) If restitution is
17 ordered pursuant to RCW 9.94A.140(3) or 9.94A.142(3) to a victim of
18 rape of a child and the victim's child born from the rape, the
19 Washington state child support registry shall be identified as the
20 party to whom payments must be made. Restitution obligations arising
21 from the rape of a child in the first, second, or third degree that
22 result in the pregnancy of the victim may be enforced for the time
23 periods provided under RCW 9.94A.140(3) and 9.94A.142(3). All other
24 legal financial obligations may be enforced at any time during the ten-
25 year period following the offender's release from total confinement or
26 within ten years of entry of the judgment and sentence, whichever
27 period is longer. Independent of the department, the party or entity
28 to whom the legal financial obligation is owed shall have the authority
29 to utilize any other remedies available to the party or entity to
30 collect the legal financial obligation.

31 (5) In order to assist the court in setting a monthly sum that the
32 offender must pay during the period of supervision, the offender is
33 required to report to the department for purposes of preparing a
34 recommendation to the court. When reporting, the offender is required,
35 under oath, to truthfully and honestly respond to all questions
36 concerning present, past, and future earning capabilities and the
37 location and nature of all property or financial assets. The offender
38 is further required to bring any and all documents as requested by the
39 department.

1 (6) After completing the investigation, the department shall make
2 a report to the court on the amount of the monthly payment that the
3 offender should be required to make towards a satisfied legal financial
4 obligation.

5 (7) During the period of supervision, the department may make a
6 recommendation to the court that the offender's monthly payment
7 schedule be modified so as to reflect a change in financial
8 circumstances. If the department sets the monthly payment amount, the
9 department may modify the monthly payment amount without the matter
10 being returned to the court. Also, during the period of supervision,
11 the offender may be required at the request of the department to report
12 to the department for the purposes of reviewing the appropriateness of
13 the collection schedule for the legal financial obligation. During
14 this reporting, the offender is required under oath to truthfully and
15 honestly respond to all questions concerning earning capabilities and
16 the location and nature of all property or financial assets. Also, the
17 offender is required to bring any and all documents as requested by the
18 department in order to prepare the collection schedule.

19 (8) After the judgment and sentence or payment order is entered,
20 the department shall for any period of supervision be authorized to
21 collect the legal financial obligation from the offender. Any amount
22 collected by the department shall be remitted daily to the county clerk
23 for the purposes of disbursements. The department is authorized to
24 accept credit cards as payment for a legal financial obligation, and
25 any costs incurred related to accepting credit card payments shall be
26 the responsibility of the offender.

27 (9) The department or any obligee of the legal financial obligation
28 may seek a mandatory wage assignment for the purposes of obtaining
29 satisfaction for the legal financial obligation pursuant to RCW
30 9.94A.2001.

31 (10) The requirement that the offender pay a monthly sum towards a
32 legal financial obligation constitutes a condition or requirement of a
33 sentence and the offender is subject to the penalties as provided in
34 RCW 9.94A.200 for noncompliance.

35 (11) The county clerk shall provide the department with
36 individualized monthly billings for each offender with an unsatisfied
37 legal financial obligation and shall provide the department with notice
38 of payments by such offenders no less frequently than weekly.

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic from
3 Schedule I-V to someone under 18 and
4 3 years junior (RCW 69.50.406)
5 Controlled Substance Homicide (RCW
6 69.50.415)
7 Sexual Exploitation (RCW 9.68A.040)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Vehicular Homicide, by being under the
11 influence of intoxicating liquor or
12 any drug (RCW 46.61.520)

13 VIII Arson 1 (RCW 9A.48.020)
14 Promoting Prostitution 1 (RCW 9A.88.070)
15 Selling for profit (controlled or
16 counterfeit) any controlled substance
17 (RCW 69.50.410)
18 Manufacture, deliver, or possess with
19 intent to deliver heroin or cocaine
20 (RCW 69.50.401(a)(1)(i))
21 Manufacture, deliver, or possess with
22 intent to deliver methamphetamine
23 (RCW 69.50.401(a)(1)(ii))
24 Vehicular Homicide, by the operation of
25 any vehicle in a reckless manner (RCW
26 46.61.520)

27 VII Burglary 1 (RCW 9A.52.020)
28 Vehicular Homicide, by disregard for the
29 safety of others (RCW 46.61.520)
30 Introducing Contraband 1 (RCW 9A.76.140)
31 Indecent Liberties (without forcible
32 compulsion) (RCW 9A.44.100(1) (b) and
33 (c))
34 Child Molestation 2 (RCW 9A.44.086)
35 Dealing in depictions of minor engaged in
36 sexually explicit conduct (RCW
37 9.68A.050)

1 Sending, bringing into state depictions of
2 minor engaged in sexually explicit
3 conduct (RCW 9.68A.060)
4 Involving a minor in drug dealing (RCW
5 69.50.401(f))
6 Reckless Endangerment 1 (RCW 9A.36.045)
7 Unlawful Possession of a Firearm in the
8 first degree (RCW 9.41.040(1)(a))
9 VI Bribery (RCW 9A.68.010)
10 Manslaughter 2 (RCW 9A.32.070)
11 Rape of a Child 3 (RCW 9A.44.079)
12 Intimidating a Juror/Witness (RCW
13 9A.72.110, 9A.72.130)
14 Damaging building, etc., by explosion with
15 no threat to human being (RCW
16 70.74.280(2))
17 Endangering life and property by
18 explosives with no threat to human
19 being (RCW 70.74.270)
20 Incest 1 (RCW 9A.64.020(1))
21 Manufacture, deliver, or possess with
22 intent to deliver narcotics from
23 Schedule I or II (except heroin or
24 cocaine) (RCW 69.50.401(a)(1)(i))
25 Intimidating a Judge (RCW 9A.72.160)
26 Bail Jumping with Murder 1 (RCW
27 9A.76.170(2)(a))
28 Theft of a Firearm (RCW 9A.56.300)
29 V Robbery 2 (RCW 9A.56.210)
30 Assault 2 (RCW 9A.36.021)
31 Persistent prison misbehavior (RCW
32 9.94.070)
33 Criminal Mistreatment 1 (RCW 9A.42.020)
34 Rape 3 (RCW 9A.44.060)
35 Sexual Misconduct with a Minor 1 (RCW
36 9A.44.093)
37 Child Molestation 3 (RCW 9A.44.089)
38 Kidnapping 2 (RCW 9A.40.030)

1 Extortion 1 (RCW 9A.56.120)
2 Incest 2 (RCW 9A.64.020(2))
3 Perjury 1 (RCW 9A.72.020)
4 Extortionate Extension of Credit (RCW
5 9A.82.020)
6 Advancing money or property for
7 extortionate extension of credit (RCW
8 9A.82.030)
9 Extortionate Means to Collect Extensions
10 of Credit (RCW 9A.82.040)
11 Rendering Criminal Assistance 1 (RCW
12 9A.76.070)
13 Bail Jumping with class A Felony (RCW
14 9A.76.170(2)(b))
15 Sexually Violating Human Remains (RCW
16 9A.44.105)
17 Delivery of imitation controlled substance
18 by person eighteen or over to person
19 under eighteen (RCW 69.52.030(2))
20 Possession of a Stolen Firearm (RCW
21 9A.56.310)

22 IV Residential Burglary (RCW 9A.52.025)
23 Theft of Livestock 1 (RCW 9A.56.080)
24 (~~Robbery 2 (RCW 9A.56.210)~~
25 ~~Assault 2 (RCW 9A.36.021)~~)
26 Escape 1 (RCW 9A.76.110)
27 Arson 2 (RCW 9A.48.030)
28 Commercial Bribery (RCW 9A.68.060)
29 Bribing a Witness/Bribe Received by
30 Witness (RCW 9A.72.090, 9A.72.100)
31 Malicious Harassment (RCW 9A.36.080)
32 Threats to Bomb (RCW 9.61.160)
33 Willful Failure to Return from Furlough
34 (RCW 72.66.060)
35 Hit and Run « Injury Accident (RCW
36 46.52.020(4))
37 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except marijuana or
6 methamphetamines) (RCW
7 69.50.401(a)(1)(ii) through (iv))
8 Influencing Outcome of Sporting Event (RCW
9 9A.82.070)
10 Use of Proceeds of Criminal Profiteering
11 (RCW 9A.82.080 (1) and (2))
12 Knowingly Trafficking in Stolen Property
13 (RCW 9A.82.050(2))
14 III Criminal Mistreatment 2 (RCW 9A.42.030)
15 Extortion 2 (RCW 9A.56.130)
16 Unlawful Imprisonment (RCW 9A.40.040)
17 Assault 3 (RCW 9A.36.031)
18 Assault of a Child 3 (RCW 9A.36.140)
19 Custodial Assault (RCW 9A.36.100)
20 Unlawful possession of firearm in the
21 second degree (RCW 9.41.040(1)(b))
22 Harassment (RCW 9A.46.020)
23 Promoting Prostitution 2 (RCW 9A.88.080)
24 Willful Failure to Return from Work
25 Release (RCW 72.65.070)
26 Burglary 2 (RCW 9A.52.030)
27 Introducing Contraband 2 (RCW 9A.76.150)
28 Communication with a Minor for Immoral
29 Purposes (RCW 9.68A.090)
30 Patronizing a Juvenile Prostitute (RCW
31 9.68A.100)
32 Escape 2 (RCW 9A.76.120)
33 Perjury 2 (RCW 9A.72.030)
34 Bail Jumping with class B or C Felony (RCW
35 9A.76.170(2)(c))
36 Intimidating a Public Servant (RCW
37 9A.76.180)
38 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with
2 intent to deliver marijuana (RCW
3 69.50.401(a)(1)(ii))
4 Delivery of a material in lieu of a
5 controlled substance (RCW
6 69.50.401(c))
7 Manufacture, distribute, or possess with
8 intent to distribute an imitation
9 controlled substance (RCW
10 69.52.030(1))
11 Recklessly Trafficking in Stolen Property
12 (RCW 9A.82.050(1))
13 Theft of livestock 2 (RCW 9A.56.080)
14 Securities Act violation (RCW 21.20.400)

15 II Unlawful Practice of Law (RCW 2.48.180)
16 Malicious Mischief 1 (RCW 9A.48.070)
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Trafficking in Insurance Claims (RCW
21 48.30A.015)
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Health Care False Claims (RCW 48.80.030)
25 Possession of controlled substance that is
26 either heroin or narcotics from
27 Schedule I or II (RCW 69.50.401(d))
28 Possession of phencyclidine (PCP) (RCW
29 69.50.401(d))
30 Create, deliver, or possess a counterfeit
31 controlled substance (RCW
32 69.50.401(b))
33 Computer Trespass 1 (RCW 9A.52.110)
34 Escape from Community Custody (RCW
35 72.09.310)

1 I Theft 2 (RCW 9A.56.040)
2 Possession of Stolen Property 2 (RCW
3 9A.56.160)
4 Forgery (RCW 9A.60.020)
5 Taking Motor Vehicle Without Permission
6 (RCW 9A.56.070)
7 Vehicle Prowl 1 (RCW 9A.52.095)
8 Attempting to Elude a Pursuing Police
9 Vehicle (RCW 46.61.024)
10 Malicious Mischief 2 (RCW 9A.48.080)
11 Reckless Burning 1 (RCW 9A.48.040)
12 Unlawful Issuance of Checks or Drafts (RCW
13 9A.56.060)
14 Unlawful Use of Food Stamps (RCW 9.91.140
15 (2) and (3))
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forged Prescription (RCW 69.41.020)
19 Forged Prescription for a Controlled
20 Substance (RCW 69.50.403)
21 Possess Controlled Substance that is a
22 Narcotic from Schedule III, IV, or V
23 or Non-narcotic from Schedule I-V
24 (except phencyclidine) (RCW
25 69.50.401(d))

26 **Sec. 9.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
27 each reenacted and amended to read as follows:

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

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

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

37 (2) Except as provided in subsection (4) of this section, class A
38 and sex prior felony convictions shall always be included in the

1 offender score. Class B prior felony convictions other than sex
2 offenses shall not be included in the offender score, if since the last
3 date of release from confinement (including full-time residential
4 treatment) pursuant to a felony conviction, if any, or entry of
5 judgment and sentence, the offender had spent ten consecutive years in
6 the community without committing any crime that subsequently results in
7 a conviction. Class C prior felony convictions other than sex offenses
8 shall not be included in the offender score if, since the last date of
9 release from confinement (including full-time residential treatment)
10 pursuant to a felony conviction, if any, or entry of judgment and
11 sentence, the offender had spent five consecutive years in the
12 community without committing any crime that subsequently results in a
13 conviction. Serious traffic convictions shall not be included in the
14 offender score if, since the last date of release from confinement
15 (including full-time residential treatment) pursuant to a felony
16 conviction, if any, or entry of judgment and sentence, the offender
17 spent five years in the community without committing any crime that
18 subsequently results in a conviction. This subsection applies to both
19 adult and juvenile prior convictions.

20 (3) Out-of-state convictions for offenses shall be classified
21 according to the comparable offense definitions and sentences provided
22 by Washington law. Federal convictions for offenses shall be
23 classified according to the comparable offense definitions and
24 sentences provided by Washington law. If there is no clearly
25 comparable offense under Washington law or the offense is one that is
26 usually considered subject to exclusive federal jurisdiction, the
27 offense shall be scored as a class C felony equivalent if it was a
28 felony under the relevant federal statute.

29 (4) Always include juvenile convictions for sex offenses and
30 (~~serious~~) violent offenses. Include other class A juvenile felonies
31 only if the offender was 15 or older at the time the juvenile offense
32 was committed. Include other class B and C juvenile felony convictions
33 only if the offender was 15 or older at the time the juvenile offense
34 was committed and the offender was less than 23 at the time the offense
35 for which he or she is being sentenced was committed.

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

1 (6)(a) In the case of multiple prior convictions, for the purpose
2 of computing the offender score, count all convictions separately,
3 except:

4 (i) Prior adult offenses which were found, under RCW
5 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
6 counted as one offense, the offense that yields the highest offender
7 score. The current sentencing court shall determine with respect to
8 other prior adult offenses for which sentences were served concurrently
9 whether those offenses shall be counted as one offense or as separate
10 offenses using the "same criminal conduct" analysis found in RCW
11 9.94A.400(1)(a), and if the court finds that they shall be counted as
12 one offense, then the offense that yields the highest offender score
13 shall be used. The current sentencing court may presume that such
14 other prior adult offenses were not the same criminal conduct from
15 sentences imposed on separate dates, or in separate counties or
16 jurisdictions, or in separate complaints, indictments, or informations;

17 (ii) Juvenile prior convictions entered or sentenced on the same
18 date shall count as one offense, the offense that yields the highest
19 offender score, except for juvenile prior convictions for violent
20 offenses with separate victims, which shall count as separate offenses;
21 and

22 (iii) In the case of multiple prior convictions for offenses
23 committed before July 1, 1986, for the purpose of computing the
24 offender score, count all adult convictions served concurrently as one
25 offense, and count all juvenile convictions entered on the same date as
26 one offense. Use the conviction for the offense that yields the
27 highest offender score.

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

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

37 (8) If the present conviction is for a nonviolent offense and not
38 covered by subsection (12) or (13) of this section, count one point for
39 each adult prior felony conviction and one point for each juvenile

1 prior violent felony conviction and 1/2 point for each juvenile prior
2 nonviolent felony conviction.

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

8 (10) If the present conviction is for Murder 1 or 2, Assault 1,
9 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count
10 three points for prior adult and juvenile convictions for crimes in
11 these categories, two points for each prior adult and juvenile violent
12 conviction (not already counted), one point for each prior adult
13 nonviolent felony conviction, and 1/2 point for each prior juvenile
14 nonviolent felony conviction.

15 (11) If the present conviction is for Burglary 1, count prior
16 convictions as in subsection (9) of this section; however count two
17 points for each prior adult Burglary 2 or residential burglary
18 conviction, and one point for each prior juvenile Burglary 2 or
19 residential burglary conviction.

20 (12) If the present conviction is for a felony traffic offense
21 count two points for each adult or juvenile prior conviction for
22 Vehicular Homicide or Vehicular Assault; for each felony offense or
23 serious traffic offense, count one point for each adult and 1/2 point
24 for each juvenile prior conviction.

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

31 (14) If the present conviction is for Willful Failure to Return
32 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
33 Release, RCW 72.65.070, or Escape from Community Custody, RCW
34 72.09.310, count only prior escape convictions in the offender score.
35 Count adult prior escape convictions as one point and juvenile prior
36 escape convictions as 1/2 point.

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

1 (16) If the present conviction is for Burglary 2 or residential
2 burglary, count priors as in subsection (8) of this section; however,
3 count two points for each adult and juvenile prior Burglary 1
4 conviction, two points for each adult prior Burglary 2 or residential
5 burglary conviction, and one point for each juvenile prior Burglary 2
6 or residential burglary conviction.

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

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

12 **Sec. 10.** RCW 9.94A.390 and 1995 c 316 s 2 are each amended to read
13 as follows:

14 If the sentencing court finds that an exceptional sentence outside
15 the standard range should be imposed in accordance with RCW
16 9.94A.120(2), the sentence is subject to review only as provided for in
17 RCW 9.94A.210(4).

18 The following are illustrative factors which the court may consider
19 in the exercise of its discretion to impose an exceptional sentence.
20 The following are illustrative only and are not intended to be
21 exclusive reasons for exceptional sentences.

22 (1) Mitigating Circumstances

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

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

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

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

33 (e) The defendant's capacity to appreciate the wrongfulness of his
34 or her conduct or to conform his or her conduct to the requirements of
35 the law, was significantly impaired (voluntary use of drugs or alcohol
36 is excluded).

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

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

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

10 (2) Aggravating Circumstances

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

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

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

19 (i) The current offense involved multiple victims or multiple
20 incidents per victim;

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

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

25 (iv) The defendant used his or her position of trust, confidence,
26 or fiduciary responsibility to facilitate the commission of the current
27 offense.

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

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

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

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

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

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

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

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

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

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

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

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

28 (j) The offense resulted in the pregnancy of a child victim of
29 rape.

30 NEW SECTION. Sec. 11. A new section is added to chapter 9A.64 RCW
31 to read as follows:

32 (1) A person commits the civil infraction of failing to supervise
33 a child if the person is the parent, lawful guardian, or other person
34 lawfully charged with the care or custody of a child under fifteen
35 years of age, fails to take reasonable steps to control the child's
36 conduct, and the child:

1 (a) Commits an offense as defined by RCW 13.40.020 that brings the
2 child within the jurisdiction of the juvenile court under chapter 13.40
3 RCW; or

4 (b) Violates a curfew law of a county or other political
5 subdivision.

6 "Fails to take reasonable steps to control the child's conduct"
7 means that (i) the child has engaged in conduct within the same zone of
8 behavior as the offense or curfew violation the child committed when
9 the person failed to supervise the child; (ii) the person knew that the
10 child had engaged in that conduct; (iii) the person had the opportunity
11 and knew of the necessity to control the child's conduct; and (iv) the
12 person's failure to exercise reasonable care, supervision, protection,
13 and control of the child was a gross departure from the conduct of a
14 reasonable parent.

15 (2) Nothing in this section applies to an agency, as defined under
16 RCW 74.15.020(3), that cares for children, expectant mothers, or the
17 developmentally disabled. Nothing in this section applies to foster
18 parents.

19 (3) A person may not be prosecuted for failing to supervise a child
20 under subsection (1)(a) of this section, if the person:

21 (a) Is the victim of the offense; or

22 (b) Reported the offense to the appropriate authorities.

23 (4) If a person is found to have committed the civil infraction of
24 failing to supervise a child and the person has not previously
25 committed the infraction of failing to supervise a child, the court:

26 (a) Must warn the person of the penalty for future infractions of
27 failing to supervise a child;

28 (b) Must order the person to pay restitution to the victim of any
29 offense committed by a child that resulted in a charge against the
30 person under this section. Restitution ordered under this subsection
31 may not exceed two thousand five hundred dollars; and

32 (c) May suspend imposition of the fine, place the person on
33 community supervision for a period up to one year, and order the person
34 to complete either a parent effectiveness program approved by the
35 court, or complete up to fifty community service hours, or both. Upon
36 the person's completion of the parent effectiveness program or
37 community service hours to the court's satisfaction, and payment of
38 restitution, the court may discharge the person. If the person fails
39 to complete the parent effectiveness program or the community service

1 hours to the court's satisfaction, or pay restitution, the court may
2 impose the fine authorized by this section.

3 (5) The court may not suspend a penalty under subsection (4)(c) of
4 this section if the person has previously been found to have committed
5 an infraction under this section.

6 (6) The juvenile court has jurisdiction over a person charged with
7 failing to supervise a child.

8 (7) Failing to supervise a child is punishable by a fine of not
9 more than one thousand dollars and supervision of up to one year but is
10 not punishable by imprisonment.

11 (8) If the person willfully fails or refuses to pay the fine, the
12 court may proceed against the person for contempt.

13 (9) Collection of restitution under this section shall not preclude
14 the victim from pursuing other remedies available at law.

15 (10) Restitution collected under this section must be credited
16 towards restitution the child is required to pay under a diversion
17 agreement, disposition, or deferred adjudication under chapter 13.40
18 RCW, unless the court does not order the child to make full restitution
19 to the victim because the child lacks the ability to pay full
20 restitution. In that case, only the amount paid under this section
21 that exceeds the full amount of restitution due may be credited against
22 the child's restitution obligation.

23 **Sec. 12.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
24 each reenacted and amended to read as follows:

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

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

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

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

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

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

1 (i) The juvenile court transfers jurisdiction of a particular
2 juvenile to adult criminal court pursuant to RCW 13.40.110; or
3 (ii) The statute of limitations applicable to adult prosecution for
4 the offense, traffic infraction, civil infraction, or violation has
5 expired; or
6 (iii) The alleged offense or infraction is a traffic, fish,
7 boating, or game offense or traffic or civil infraction committed by a
8 juvenile sixteen years of age or older and would, if committed by an
9 adult, be tried or heard in a court of limited jurisdiction, in which
10 instance the appropriate court of limited jurisdiction shall have
11 jurisdiction over the alleged offense or infraction: PROVIDED, That if
12 such an alleged offense or infraction and an alleged offense or
13 infraction subject to juvenile court jurisdiction arise out of the same
14 event or incident, the juvenile court may have jurisdiction of both
15 matters: PROVIDED FURTHER, That the jurisdiction under this subsection
16 does not constitute "transfer" or a "decline" for purposes of RCW
17 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER, That
18 courts of limited jurisdiction which confine juveniles for an alleged
19 offense or infraction may place juveniles in juvenile detention
20 facilities under an agreement with the officials responsible for the
21 administration of the juvenile detention facility in RCW 13.04.035 and
22 13.20.060; or
23 (iv) The alleged offense is a traffic or civil infraction, a
24 violation of compulsory school attendance provisions under chapter
25 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has
26 assumed concurrent jurisdiction over those offenses as provided in
27 section 14 of this act; or
28 (v) The juvenile is sixteen or seventeen years old and the alleged
29 offense is: ~~((A) A serious violent offense as defined in RCW~~
30 ~~9.94A.030 committed on or after June 13, 1994; or (B))~~ A violent
31 offense as defined in RCW 9.94A.030 ~~((committed on or after June 13,~~
32 ~~1994, and the juvenile has a criminal history consisting of: (I) One~~
33 ~~or more prior serious violent offenses; (II) two or more prior violent~~
34 ~~offenses; or (III) three or more of any combination of the following~~
35 ~~offenses: Any class A felony, any class B felony, vehicular assault,~~
36 ~~or manslaughter in the second degree, all of which must have been~~
37 ~~committed after the juvenile's thirteenth birthday and prosecuted~~
38 ~~separately. In such a case the adult criminal court shall have~~
39 ~~exclusive original jurisdiction.~~

1 ~~If the juvenile challenges the state's determination of the~~
2 ~~juvenile's criminal history, the state may establish the offender's~~
3 ~~criminal history by a preponderance of the evidence. If the criminal~~
4 ~~history consists of adjudications entered upon a plea of guilty, the~~
5 ~~state shall not bear a burden of establishing the knowing and~~
6 ~~voluntariness of the plea)); or, a felony sex offense as defined in RCW~~
7 ~~9.94A.030 other than a violation of RCW 9A.44.040 or 9A.44.050, if the~~
8 ~~juvenile is ineligible for the disposition option under RCW~~
9 ~~13.40.160(5); or~~

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

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

16 The word "committed" as used in (e)(vi) and (vii) of this
17 subsection means that the juvenile has been placed in the physical
18 custody of the department of social and health services in a facility
19 operated by or pursuant to a contract with the state.

20 The adult criminal court shall have exclusive original jurisdiction
21 over offenses covered by subsection (1)(e)(v), (vi), and (vii) of this
22 section. The adult criminal court shall also have exclusive original
23 jurisdiction over any charges arising out of the same incident as an
24 offense covered by subsection (1)(e)(v), (vi), and (vii) of this
25 section. Any juvenile who becomes subject to adult criminal court
26 jurisdiction under subsection (1)(e)(v), (vi), and (vii) of this
27 section shall remain under adult criminal court jurisdiction for all
28 future offenses;

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

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

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

1 (i) Relating to petitions to compel disclosure of information filed
2 by the department of social and health services pursuant to RCW
3 74.13.042.

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

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

12 (4) A parent, guardian, or custodian who has custody of any
13 juvenile under juvenile court jurisdiction is subject to the
14 jurisdiction of the juvenile court for purposes of enforcing required
15 attendance at juvenile court hearings if the parent, guardian, or
16 custodian is served with a summons.

17 (5) A parent, lawful guardian, or other person lawfully charged
18 with the care and custody of a child under age fifteen is subject to
19 the jurisdiction of the juvenile court under section 11 of this act.

20 NEW SECTION. Sec. 13. The legislature finds that a swift and
21 certain response to a juvenile who begins engaging in acts of
22 delinquency may prevent the offender from becoming a chronic or more
23 serious offender. However, given pressing demands to address serious
24 offenders, the system does not always respond to minor offenders
25 expeditiously and effectively. Consequently, sections 14, 37, and 38
26 of this act are adopted to implement an experiment to determine whether
27 granting courts of limited jurisdiction concurrent jurisdiction over
28 certain juvenile offenses will improve the system's effectiveness in
29 curbing delinquency. The legislature may ascertain whether this
30 approach might be successful on a larger scale by conducting an
31 experiment with local governments, which are the laboratories of
32 democracy.

33 NEW SECTION. Sec. 14. A new section is added to chapter 13.04 RCW
34 to read as follows:

35 (1) Any county with a population of at least one hundred seventy-
36 five thousand but less than two hundred fifty thousand that has a city
37 with a population of at least fifty-nine thousand may authorize a pilot

1 project to allow courts of limited jurisdiction within the county to
2 exercise concurrent jurisdiction with the juvenile court under certain
3 circumstances. District and municipal courts of limited jurisdiction
4 at the local option of the county or any city or town located within
5 the county may exercise concurrent original jurisdiction with the
6 juvenile court over traffic or civil infractions, violations of
7 compulsory school attendance provisions under chapter 28A.225 RCW, and
8 misdemeanors when those offenses are allegedly committed by juveniles
9 and:

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

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

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

18 (c) The county legislative authority of the county has authorized
19 creation of concurrent jurisdiction between the court of limited
20 jurisdiction and the juvenile court; and

21 (d) The court of limited jurisdiction has an agreement with
22 officials responsible for administering the county juvenile detention
23 facility pursuant to RCW 13.04.035 and 13.20.060 that the court may
24 order juveniles into the detention facility for an offense in cases in
25 which the court finds that a disposition without confinement would be
26 a manifest injustice.

27 (2) The juvenile court shall retain jurisdiction over the offense
28 if the juvenile is charged with another offense arising out of the same
29 incident and the juvenile court has jurisdiction over the other
30 offense.

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

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

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

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

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

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

5 (2) It is the intent of the legislature that a system capable of
6 having primary responsibility for, being accountable for, and
7 responding to the needs of youthful offenders, as defined by this
8 chapter, be established. It is the further intent of the legislature
9 that youth, in turn, be held accountable for their offenses and that
10 ~~((both))~~ communities, families, and the juvenile courts carry out their
11 functions consistent with this intent. To effectuate these policies,
12 the legislature declares the following to be equally important purposes
13 of this chapter:

14 (a) Protect the citizenry from criminal behavior;

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

17 (c) Make the juvenile offender accountable for his or her criminal
18 behavior;

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

21 (e) Provide due process for juveniles alleged to have committed an
22 offense;

23 (f) Provide necessary treatment, supervision, and custody for
24 juvenile offenders;

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

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

28 (i) Develop effective standards and goals for the operation,
29 funding, and evaluation of all components of the juvenile justice
30 system and related services at the state and local levels; ~~((and))~~

31 (j) Provide for a clear policy to determine what types of offenders
32 shall receive punishment, treatment, or both, and to determine the
33 jurisdictional limitations of the courts, institutions, and community
34 services; and

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

37 **Sec. 16.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
38 each reenacted and amended to read as follows:

1 For the purposes of this chapter:

2 (1) "Serious offender" means a person (~~(fifteen years of age or~~
3 ~~elder)~~) who has committed an offense which if committed by an adult
4 would be:

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

6 (b) Manslaughter in the first degree; or

7 (c) Assault in the second degree, extortion in the first degree,
8 child molestation in the second degree, kidnapping in the second
9 degree, robbery in the second degree, residential burglary, or burglary
10 in the second degree, where such offenses include the infliction of
11 bodily harm upon another or where during the commission of or immediate
12 withdrawal from such an offense the perpetrator is armed with a deadly
13 weapon;

14 (2) "Community service" means compulsory service, without
15 compensation, performed for the benefit of the community by the
16 offender as punishment for committing an offense. Community service
17 may be performed through public or private organizations or through
18 work crews;

19 (3) "Community supervision" means an order of disposition by the
20 court of an adjudicated youth not committed to the department or an
21 order granting a deferred adjudication pursuant to RCW 13.40.125. A
22 community supervision order for a single offense may be for a period of
23 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
24 one year for other offenses. As a mandatory condition of any term of
25 community supervision, the court shall order the juvenile to refrain
26 from committing new offenses. As a mandatory condition of community
27 supervision, the court shall order the juvenile to comply with the
28 mandatory school attendance provisions of chapter 28A.225 RCW and to
29 inform the school of the existence of this requirement. Community
30 supervision is an individualized program comprised of one or more of
31 the following:

32 (a) Community-based sanctions;

33 (b) Community-based rehabilitation;

34 (c) Monitoring and reporting requirements;

35 (d) Posting of a probation bond (~~(imposed pursuant to RCW~~
36 ~~13.40.0357)~~) as provided in RCW 13.40.054;

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

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

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

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

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

19 (7) "Confinement" means physical custody by the department of
20 social and health services in a facility operated by or pursuant to a
21 contract with the state, or physical custody in a detention facility
22 operated by or pursuant to a contract with any county. The county may
23 operate or contract with vendors to operate county detention
24 facilities. The department may operate or contract to operate
25 detention facilities for juveniles committed to the department.
26 Pretrial confinement or confinement of less than thirty-one days
27 imposed as part of a disposition or modification order may be served
28 consecutively or intermittently, in the discretion of the court;

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

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

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

37 (b) The criminal complaint was diverted by a prosecutor pursuant to
38 the provisions of this chapter on agreement of the respondent and after
39 an advisement to the respondent that the criminal complaint would be

1 considered as part of the respondent's criminal history. A
2 successfully completed deferred adjudication shall not be considered
3 part of the respondent's criminal history;

4 (10) "Department" means the department of social and health
5 services;

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

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

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

31 (14) "Juvenile," "youth," and "child" mean any individual who is
32 under the chronological age of eighteen years and who has not been
33 previously transferred to adult court pursuant to RCW 13.40.110 or who
34 is otherwise under adult criminal court jurisdiction pursuant to RCW
35 13.04.030;

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

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

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

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

9 (a) Four misdemeanors;

10 (b) Two misdemeanors and one gross misdemeanor;

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

12 (d) Three gross misdemeanors.

13 For purposes of this definition, current violations shall be
14 counted as misdemeanors;

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

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

21 (21) "Restitution" means financial reimbursement by the offender to
22 the victim, and shall be limited to easily ascertainable damages for
23 injury to or loss of property, actual expenses incurred for medical
24 treatment for physical injury to persons, lost wages resulting from
25 physical injury, and costs of the victim's counseling reasonably
26 related to the offense if the offense is a sex offense. Restitution
27 shall not include reimbursement for damages for mental anguish, pain
28 and suffering, or other intangible losses. Nothing in this chapter
29 shall limit or replace civil remedies or defenses available to the
30 victim or offender;

31 (22) "Secretary" means the secretary of the department of social
32 and health services. "Assistant secretary" means the assistant
33 secretary for juvenile rehabilitation for the department;

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

38 (24) "Sex offense" means an offense defined as a sex offense in RCW
39 9.94A.030;

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

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

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

10 (28) "Violent offense" means a violent offense as defined in RCW
11 9.94A.030;

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

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

23 **Sec. 17.** RCW 13.40.025 and 1995 c 269 s 302 are each amended to
24 read as follows:

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

29 (2) The commission shall be composed of the secretary or the
30 secretary's designee and the following nine members appointed by the
31 governor, subject to confirmation by the senate: (a) A superior court
32 judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c)
33 a law enforcement officer; (d) an administrator of juvenile court
34 services; (e) a public defender actively practicing in juvenile court;
35 (f) a county legislative official or county executive; and (g) three
36 other persons who have demonstrated significant interest in the
37 adjudication and disposition of juvenile offenders. In making the
38 appointments, the governor shall seek the recommendations of the

1 association of superior court judges in respect to the member who is a
2 superior court judge; of Washington prosecutors in respect to the
3 prosecuting attorney or deputy prosecuting attorney member; of the
4 Washington association of sheriffs and police chiefs in respect to the
5 member who is a law enforcement officer; of juvenile court
6 administrators in respect to the member who is a juvenile court
7 administrator; and of the state bar association in respect to the
8 public defender member; and of the Washington association of counties
9 in respect to the member who is either a county legislative official or
10 county executive.

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

13 (4) The secretary shall serve on the commission during the
14 secretary's tenure as secretary of the department. The term of the
15 remaining members of the commission shall be three years. The initial
16 terms shall be determined by lot conducted at the commission's first
17 meeting as follows: (a) Four members shall serve a two-year term; and
18 (b) four members shall serve a three-year term. In the event of a
19 vacancy, the appointing authority shall designate a new member to
20 complete the remainder of the unexpired term.

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

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

27 **Sec. 18.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
28 as follows:

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

1 make recommendations to the legislature regarding revisions or
2 modifications of the disposition standards in accordance with RCW
3 13.40.030. The evaluations shall be submitted to the legislature on
4 December 1 of each even-numbered year (~~thereafter~~).

5 (2) It is the responsibility of the department to: (a) Provide the
6 commission with available data concerning the implementation of the
7 disposition standards and related statutes and their effect on the
8 performance of the department's responsibilities relating to juvenile
9 offenders; and (b) (~~at the request of the commission, provide~~
10 ~~technical and administrative assistance to the commission in the~~
11 ~~performance of its responsibilities; and (c))~~) provide the commission
12 and legislature with recommendations for modification of the
13 disposition standards. The office of the administrator for the courts
14 shall provide the commission with available data on diversion and
15 dispositions of juvenile offenders under chapter 13.40 RCW.

16 **Sec. 19.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
17 as follows:

18 (1)(~~(a)~~) The (~~juvenile disposition standards~~) sentencing
19 guidelines commission shall recommend to the legislature no later than
20 (~~November 1st of each year~~) December 1, 1996, disposition standards
21 for all offenses. The standards shall establish, in accordance with
22 the purposes of this chapter, ranges which may include terms of
23 confinement and/or community supervision established on the basis of
24 (~~a youth's age,~~) the instant offense(~~,~~) and the history and
25 seriousness of previous offenses, but in no case may the period of
26 confinement and supervision exceed that to which an adult may be
27 subjected for the same offense(s). Standards recommended for offenders
28 listed in RCW 13.40.020(1) shall include a range of confinement which
29 may not be less than thirty days. No standard range may include a
30 period of confinement which includes both more than thirty, and thirty
31 or less, days. Disposition standards recommended by the commission
32 shall provide that in all cases where a youth is sentenced to a term of
33 confinement in excess of thirty days the department may impose an
34 additional period of parole (~~not to exceed eighteen months~~).
35 Standards of confinement which may be proposed may relate only to the
36 length of the proposed terms and not to the nature of the security to
37 be imposed. (~~In developing recommended disposition standards, the~~

1 commission shall consider the capacity of the state juvenile facilities
2 and the projected impact of the proposed standards on that capacity.

3 (b) The secretary shall submit guidelines pertaining to the nature
4 of the security to be imposed on youth placed in his or her custody
5 based on the age, offense(s), and criminal history of the juvenile
6 offender. Such guidelines shall be submitted to the legislature for
7 its review no later than November 1st of each year. At the same time
8 the secretary shall submit a report on security at juvenile facilities
9 during the preceding year. The report shall include the number of
10 escapes from each juvenile facility, the most serious offense for which
11 each escapee had been confined, the number and nature of offenses found
12 to have been committed by juveniles while on escape status, the number
13 of authorized leaves granted, the number of failures to comply with
14 leave requirements, the number and nature of offenses committed while
15 on leave, and the number and nature of offenses committed by juveniles
16 while in the community on minimum security status; to the extent this
17 information is available to the secretary. The department shall
18 include security status definitions in the security guidelines it
19 submits to the legislature pursuant to this section.)

20 (2) ((In developing recommendations for the permissible ranges of
21 confinement under this section the commission shall be subject to the
22 following limitations:

23 (a) Where the maximum term in the range is ninety days or less, the
24 minimum term in the range may be no less than fifty percent of the
25 maximum term in the range;

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

29 (c) Where the maximum term in the range is more than one year, the
30 minimum term in the range may be no less than eighty percent of the
31 maximum term in the range.)) The commission's recommendations for new
32 disposition standards shall result in a simplified disposition system.
33 In setting the new standards, the commission shall focus on the need to
34 protect public safety by emphasizing punishment, deterrence, and
35 confinement for violent and repeat offenders. The seriousness of the
36 offense shall be the most important factor in determining the length of
37 confinement, while the offender's age and criminal history shall count
38 as contributing factors. The commission shall consider whether
39 juveniles prosecuted under the juvenile justice system for committing

1 violent, sex, or repeated property offenses should be automatically
2 prosecuted as adults when their term of confinement under the adult
3 sentencing system is longer than their term of confinement under the
4 juvenile system. The commission shall consider the option of allowing
5 the prosecutor to determine in which system the juvenile should be
6 prosecuted based on the anticipated length of confinement in both
7 systems if the court imposes an exceptional sentence for manifest
8 injustice above the standard range as requested by the prosecutor. The
9 commission shall increase judicial flexibility and discretion by
10 broadening standard ranges of confinement. The commission shall
11 provide for the use of basic training camp programs. Alternatives to
12 total confinement shall be considered for nonviolent offenders. The
13 commission must also study the feasibility of creating a disposition
14 option allowing a court to order minor/first or middle offenders into
15 inpatient substance abuse treatment. To determine the feasibility of
16 that option, the commission must review the number of existing beds and
17 funding available through private, county, state, or federal resources,
18 criteria for eligibility for funding, competing avenues of access to
19 those beds, the current system's method of prioritizing the needs for
20 limited bed space, the average length of stay in inpatient treatment,
21 the costs of that treatment, and the cost effectiveness of inpatient
22 treatment compared to outpatient treatment.

23 In setting new standards, the commission must also recommend
24 disposition and institutional options for serious or chronic offenders
25 between the ages of fifteen and twenty-five who currently must either
26 be released from juvenile court jurisdiction at age twenty-one or who
27 are prosecuted as adults because the juvenile system is inadequate to
28 address the seriousness of their crimes, their rehabilitation needs, or
29 public safety. One option must include development of a youthful
30 offender disposition option that combines adult criminal sentencing
31 guidelines and juvenile disposition standards and addresses: (a)
32 Whether youthful offenders would be under jurisdiction of the
33 department of corrections or the department of social and health
34 services; (b) whether current age restrictions on juvenile court
35 jurisdiction would be modified; and (c) whether the department of
36 social and health services or the department of corrections would
37 provide institutional and community correctional services. The option
38 must also recommend an implementation timeline and plan, identify
39 funding and capital construction or improvement options to provide

1 separate facilities for youthful offenders, and identify short and
2 long-term fiscal impacts.

3 In developing the new standards, the commission must review
4 disposition options in other states and consult with interested parties
5 including superior court judges, prosecutors, defense attorneys,
6 juvenile court administrators, victims advocates, the department of
7 corrections and the department of social and health services, and
8 members of the legislature.

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

11 The secretary shall submit a report on security at juvenile
12 facilities during the preceding year. The report shall include the
13 number of escapes from each juvenile facility, the most serious offense
14 for which each escapee had been confined, the number and nature of
15 offenses found to have been committed by juveniles while on escape
16 status, the number of authorized leaves granted, the number of failures
17 to comply with leave requirements, the number and nature of offenses
18 committed while on leave, and the number and nature of offenses
19 committed by juveniles while in the community on minimum security
20 status; to the extent this information is available to the secretary.
21 The department shall include security status definitions in the report
22 it submits to the legislature pursuant to this section. The report
23 shall be submitted no later than December 15th of each year.

24 **Sec. 21.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to
25 read as follows:

26 SCHEDULE A		
27 DESCRIPTION AND OFFENSE CATEGORY		
28	JUVENILE	
29 JUVENILE	DISPOSITION	
30 DISPOSITION	CATEGORY FOR ATTEMPT,	
31 OFFENSE	BAILJUMP, CONSPIRACY,	
32 CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
33
34	Arson and Malicious Mischief	
35	A Arson 1 (9A.48.020)	B+
36	B Arson 2 (9A.48.030)	C

1	C	Reckless Burning 1 (9A.48.040)	D
2	D	Reckless Burning 2 (9A.48.050)	E
3	B	Malicious Mischief 1 (9A.48.070)	C
4	C	Malicious Mischief 2 (9A.48.080)	D
5	D	Malicious Mischief 3 (<\$50 is	
6		E class) (9A.48.090)	E
7	E	Tampering with Fire Alarm	
8		Apparatus (9.40.100)	E
9	A	Possession of Incendiary Device	
10		(9.40.120)	B+
11		Assault and Other Crimes	
12		Involving Physical Harm	
13	A	Assault 1 (9A.36.011)	B+
14	B+	Assault 2 (9A.36.021)	C+
15	C+	Assault 3 (9A.36.031)	D+
16	D+	Assault 4 (9A.36.041)	E
17	D+	Reckless Endangerment	
18		(9A.36.050)	E
19	C+	Promoting Suicide Attempt	
20		(9A.36.060)	D+
21	D+	Coercion (9A.36.070)	E
22	C+	Custodial Assault (9A.36.100)	D+
23		Burglary and Trespass	
24	B+	Burglary 1 (9A.52.020)	C+
25	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
26	B	Burglary 2 (9A.52.030)	C
27	D	Burglary Tools (Possession of)	
28		(9A.52.060)	E
29	D	Criminal Trespass 1 (9A.52.070)	E
30	E	Criminal Trespass 2 (9A.52.080)	E
31	D	Vehicle Prowling (9A.52.100)	E
32		Drugs	
33	E	Possession/Consumption of Alcohol	
34		(66.44.270)	E
35	C	Illegally Obtaining Legend Drug	
36		(69.41.020)	D

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

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

1		Sex Crimes	
2	A	Rape 1 (9A.44.040)	B+
3	A-	Rape 2 (9A.44.050)	B+
4	C+	Rape 3 (9A.44.060)	D+
5	A-	Rape of a Child 1 (9A.44.073)	B+
6	B	Rape of a Child 2 (9A.44.076)	C+
7	B	Incest 1 (9A.64.020(1))	C
8	C	Incest 2 (9A.64.020(2))	D
9	D+	Indecent Exposure	
10		(Victim <14) (9A.88.010)	E
11	E	Indecent Exposure	
12		(Victim 14 or over) (9A.88.010)	E
13	B+	Promoting Prostitution 1	
14		(9A.88.070)	C+
15	C+	Promoting Prostitution 2	
16		(9A.88.080)	D+
17	E	O & A (Prostitution) (9A.88.030)	E
18	B+	Indecent Liberties (9A.44.100)	C+
19	B+	Child Molestation 1 (9A.44.083)	C+
20	C+	Child Molestation 2 (9A.44.086)	C
21		Theft, Robbery, Extortion, and Forgery	
22	B	Theft 1 (9A.56.030)	C
23	C	Theft 2 (9A.56.040)	D
24	D	Theft 3 (9A.56.050)	E
25	B	Theft of Livestock (9A.56.080)	C
26	C	Forgery (9A.60.020)	D
27	A	Robbery 1 (9A.56.200)	B+
28	B+	Robbery 2 (9A.56.210)	C+
29	B+	Extortion 1 (9A.56.120)	C+
30	C+	Extortion 2 (9A.56.130)	D+
31	B	Possession of Stolen Property 1	
32		(9A.56.150)	C
33	C	Possession of Stolen Property 2	
34		(9A.56.160)	D
35	D	Possession of Stolen Property 3	
36		(9A.56.170)	E
37	C	Taking Motor Vehicle Without	
38		Owner's Permission (9A.56.070)	D

1		Motor Vehicle Related Crimes	
2	E	Driving Without a License	
3		(46.20.021)	E
4	C	Hit and Run - Injury	
5		(46.52.020(4))	D
6	D	Hit and Run-Attended	
7		(46.52.020(5))	E
8	E	Hit and Run-Unattended	
9		(46.52.010)	E
10	C	Vehicular Assault (46.61.522)	D
11	C	Attempting to Elude Pursuing	
12		Police Vehicle (46.61.024)	D
13	E	Reckless Driving (46.61.500)	E
14	D	Driving While Under the Influence	
15		(46.61.502 and 46.61.504)	E
16	D	Vehicle Prowling (9A.52.100)	E
17	C	Taking Motor Vehicle Without	
18		Owner's Permission (9A.56.070)	D
19		Other	
20	B	Bomb Threat (9.61.160)	C
21	C	Escape 1 (9A.76.110)	C
22	C	Escape 2 (9A.76.120)	C
23	D	Escape 3 (9A.76.130)	E
24	E	Obscene, Harassing, Etc.,	
25		Phone Calls (9.61.230)	E
26	A	Other Offense Equivalent to an	
27		Adult Class A Felony	B+
28	B	Other Offense Equivalent to an	
29		Adult Class B Felony	C
30	C	Other Offense Equivalent to an	
31		Adult Class C Felony	D
32	D	Other Offense Equivalent to an	
33		Adult Gross Misdemeanor	E
34	E	Other Offense Equivalent to an	
35		Adult Misdemeanor	E
36	V	Violation of Order of Restitution,	
37		Community Supervision, or	
38		Confinement, (13.40.200) -	V

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

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

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

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

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

11 SCHEDULE B

12 PRIOR OFFENSE INCREASE FACTOR

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

15 TIME SPAN

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

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

SCHEDULE C

CURRENT OFFENSE POINTS

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

AGE

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

JUVENILE SENTENCING STANDARDS

SCHEDULE D-1

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

MINOR/FIRST OFFENDER

OPTION A

STANDARD RANGE

Points	Community Supervision	Service 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

1 50-59 ——— 3-6 months ——— and/or 24-40 ——— and/or 0-\$25
 2 60-69 ——— 6-9 months ——— and/or 32-48 ——— and/or 0-\$50
 3 70-79 ——— 6-9 months ——— and/or 40-56 ——— and/or 0-\$50
 4 80-89 ——— 9-12 months ——— and/or 48-64 ——— and/or 10-\$100
 5 90-109 ——— 9-12 months ——— and/or 56-72 ——— and/or 10-\$100))

6 Community

7 Community Service

8 Points Supervision Hours Fine

9

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

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

22 OR

23 OPTION B

24 ((~~STATUTORY OPTION~~

25 ~~0-12 Months Community Supervision~~

26 ~~0-150 Hours Community Service~~

27 ~~0-100 Fine~~

28 ~~Posting of a Probation Bond~~

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

31 OR

32 (~~OPTION C~~)

33 MANIFEST INJUSTICE

34 When a term of community supervision would effectuate a manifest
 35 injustice, another disposition may be imposed. When a judge imposes a

1 sentence of confinement exceeding 30 days, the court shall sentence the
 2 juvenile to a maximum term and the provisions of ((RCW 13.40.030(2)))
 3 section 31 of this act shall be used to determine the range.

4 JUVENILE SENTENCING STANDARDS
 5 SCHEDULE D-2

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

9 MIDDLE OFFENDER

10 OPTION A

11 STANDARD RANGE

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

28 Community
 29 Community Service
 30 Points Supervision Hours Fine Confinement
 31 (Days)
 32
 33 1-9 0-12 months and/or 0-150 and/or 0-\$100 and/or 0-30
 34 10-19 0-12 months and/or 0-150 and/or 0-\$100 and/or 0-30

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>

9 (Weeks)

10	<u>110-149</u>	<u>20-24</u>
11	<u>150-199</u>	<u>21-28</u>
12	<u>200-249</u>	<u>30-40</u>
13	<u>250-299</u>	<u>52-65</u>
14	<u>300-374</u>	<u>80-100</u>
15	<u>375+</u>	<u>103-129</u>

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

19 All A+ offenses 180-224 weeks

20 OR

21 OPTION B

22 STATUTORY OPTION

23 OFFENDERS WITH 110 POINTS OR MORE

24 (~~0-12 Months Community Supervision~~
25 ~~0-150 Hours Community Service~~
26 ~~0-100 Fine~~
27 ~~Posting of a Probation Bond~~))

28 If the offender has (~~less than~~) 110 points or more, the court may
29 impose (~~a determinate disposition of community supervision and/or up~~
30 ~~to 30 days confinement; in which case, if confinement has been imposed,~~
31 ~~the court shall state either aggravating or mitigating factors as set~~
32 ~~forth in RCW 13.40.150)) an option B disposition as provided in RCW
33 13.40.160(4)(b).~~

34 (~~If the middle offender has 110 points or more, the court may~~
35 ~~impose a disposition under option A and may suspend the disposition on~~
36 ~~the condition that the offender serve up to thirty days of confinement~~

1 and follow all conditions of community supervision. If the offender
2 fails to comply with the terms of community supervision, the court may
3 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended
4 disposition and order execution of the disposition. If the court
5 imposes confinement for offenders with 110 points or more, the court
6 shall state either aggravating or mitigating factors set forth in RCW
7 13.40.150.)

8 OR

9 OPTION C
10 MANIFEST INJUSTICE
11 ALL MIDDLE OFFENDERS

12 If the court determines that a disposition under A or B would
13 effectuate a manifest injustice, the court shall sentence the juvenile
14 to a maximum term and the provisions of ((RCW 13.40.030(2))) section 31
15 of this act shall be used to determine the range.

16 JUVENILE SENTENCING STANDARDS
17 SCHEDULE D-3

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

21 SERIOUS OFFENDER
22 OPTION A
23 STANDARD RANGE

24	Points	Institution Time
25	((0-129 _____ 8-12 weeks	
26	130-149 _____ 13-16 weeks	
27	150-199 _____ 21-28 weeks	
28	200-249)) <u>0-249</u>	30-40 weeks
29	250-299	52-65 weeks
30	300-374	80-100 weeks
31	375+	103-129 weeks
32	All A+	
33	Offenses	180-224 weeks

34 OR

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

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

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

14 (6) If detention is not necessary under RCW 13.40.040, (~~(as now or~~
15 ~~hereafter amended,~~) the court shall impose the most appropriate of the
16 following conditions or, if necessary, any combination of the following
17 conditions:

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

20 (b) Place restrictions on the travel of the juvenile during the
21 period of release;

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

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

26 (e) Require that the juvenile return to detention during specified
27 hours; or

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

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

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

37 **Sec. 24.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
38 as follows:

1 (1) All actions under this chapter shall be commenced and tried in
2 the county where any element of the offense was committed except as
3 otherwise specially provided by statute. In cases in which diversion
4 is provided by statute, venue is in the county in which the juvenile
5 resides or in the county in which any element of the offense was
6 committed.

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

15 (3) The case and copies of all legal and social documents
16 pertaining thereto may in the discretion of the court be transferred to
17 the county in which the juvenile resides for supervision and
18 enforcement of the disposition order. The court of the receiving
19 county has jurisdiction to modify and enforce the disposition order.

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

24 **Sec. 25.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended
25 to read as follows:

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

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

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

1 (b) Restitution limited to the amount of actual loss incurred by
2 the victim, and to an amount the juvenile has the means or potential
3 means to pay. The diversion contract must specify the full amount of
4 restitution due even if the juvenile does not have the means or
5 potential to pay the full amount;

6 (c) Attendance at (~~up to ten hours of~~) counseling and/or (~~up to~~
7 ~~twenty hours of~~) educational or informational sessions at a community
8 agency for a specified period of time as determined by the diversion
9 unit. The educational or informational sessions may include sessions
10 relating to respect for self, others, and authority; victim awareness;
11 accountability; self-worth; responsibility; work ethics; good
12 citizenship; and life skills. For purposes of this section, "community
13 agency" may also mean a community-based nonprofit organization, if
14 approved by the diversion unit. The state shall not be liable for
15 costs resulting from the diversionary unit exercising the option to
16 permit diversion agreements to mandate attendance at (~~up to ten hours~~
17 ~~of~~) counseling and/or (~~up to twenty hours of~~) educational or
18 informational sessions;

19 (d) A fine, not to exceed one hundred dollars. In determining the
20 amount of the fine, the diversion unit shall consider only the
21 juvenile's financial resources and whether the juvenile has the means
22 to pay the fine. The diversion unit shall not consider the financial
23 resources of the juvenile's parents, guardian, or custodian in
24 determining the fine to be imposed; and

25 (e) Requirements to remain during specified hours at home, school,
26 or work, and restrictions on leaving or entering specified geographical
27 areas.

28 (3) In assessing periods of community service to be performed and
29 restitution to be paid by a juvenile who has entered into a diversion
30 agreement, the court officer to whom this task is assigned shall
31 consult with the juvenile's custodial parent or parents or guardian and
32 victims who have contacted the diversionary unit and, to the extent
33 possible, involve members of the community. Such members of the
34 community shall meet with the juvenile and advise the court officer as
35 to the terms of the diversion agreement and shall supervise the
36 juvenile in carrying out its terms.

37 (4) A diversion agreement may not exceed a period of six months and
38 may include a period extending beyond the eighteenth birthday of the
39 divertee. Any restitution assessed during its term may not exceed an

1 amount which the juvenile could be reasonably expected to pay during
2 this period. If additional time is necessary for the juvenile to
3 complete restitution to the victim, the time period limitations of this
4 subsection may be extended by an additional six months.

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

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

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

14 (b) Violation of the terms of the agreement shall be the only
15 grounds for termination;

16 (c) No diverttee may be terminated from a diversion program without
17 being given a court hearing, which hearing shall be preceded by:

18 (i) Written notice of alleged violations of the conditions of the
19 diversion program; and

20 (ii) Disclosure of all evidence to be offered against the diverttee;

21 (d) The hearing shall be conducted by the juvenile court and shall
22 include:

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

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

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

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

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

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

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

35 (7) The diversion unit shall, subject to available funds, be
36 responsible for providing interpreters when juveniles need interpreters
37 to effectively communicate during diversion unit hearings or
38 negotiations.

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

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

5 (10) The right to counsel shall inure prior to the initial
6 interview for purposes of advising the juvenile as to whether he or she
7 desires to participate in the diversion process or to appear in the
8 juvenile court. The juvenile may be represented by counsel at any
9 critical stage of the diversion process, including intake interviews
10 and termination hearings. The juvenile shall be fully advised at the
11 intake of his or her right to an attorney and of the relevant services
12 an attorney can provide. For the purpose of this section, intake
13 interviews mean all interviews regarding the diversion agreement
14 process.

15 The juvenile shall be advised that a diversion agreement shall
16 constitute a part of the juvenile's criminal history as defined by RCW
17 13.40.020(9). A signed acknowledgment of such advisement shall be
18 obtained from the juvenile, and the document shall be maintained by the
19 diversionary unit together with the diversion agreement, and a copy of
20 both documents shall be delivered to the prosecutor if requested by the
21 prosecutor. The supreme court shall promulgate rules setting forth the
22 content of such advisement in simple language.

23 (11) When a juvenile enters into a diversion agreement, the
24 juvenile court may receive only the following information for
25 dispositional purposes:

- 26 (a) The fact that a charge or charges were made;
- 27 (b) The fact that a diversion agreement was entered into;
- 28 (c) The juvenile's obligations under such agreement;
- 29 (d) Whether the alleged offender performed his or her obligations
30 under such agreement; and
- 31 (e) The facts of the alleged offense.

32 (12) A diversionary unit may refuse to enter into a diversion
33 agreement with a juvenile. When a diversionary unit refuses to enter
34 a diversion agreement with a juvenile, it shall immediately refer such
35 juvenile to the court for action and shall forward to the court the
36 criminal complaint and a detailed statement of its reasons for refusing
37 to enter into a diversion agreement. The diversionary unit shall also
38 immediately refer the case to the prosecuting attorney for action if
39 such juvenile violates the terms of the diversion agreement.

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

25 (14) A diversion unit may supervise the fulfillment of a diversion
26 agreement entered into before the juvenile's eighteenth birthday and
27 which includes a period extending beyond the diverttee's eighteenth
28 birthday.

29 (15) If a fine required by a diversion agreement cannot reasonably
30 be paid due to a change of circumstance, the diversion agreement may be
31 modified at the request of the diverttee and with the concurrence of the
32 diversion unit to convert an unpaid fine into community service. The
33 modification of the diversion agreement shall be in writing and signed
34 by the diverttee and the diversion unit. The number of hours of
35 community service in lieu of a monetary penalty shall be converted at
36 the rate of the prevailing state minimum wage per hour.

37 (16) Fines imposed under this section shall be collected and paid
38 into the county general fund in accordance with procedures established
39 by the juvenile court administrator under RCW 13.04.040 and may be used

1 only for juvenile services. In the expenditure of funds for juvenile
2 services, there shall be a maintenance of effort whereby counties
3 exhaust existing resources before using amounts collected under this
4 section.

5 **Sec. 26.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to read
6 as follows:

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

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

16 ~~(b) The respondent is seventeen years of age and the information
17 alleges assault in the second degree, extortion in the first degree,
18 indecent liberties, child molestation in the second degree, kidnapping
19 in the second degree, or robbery in the second degree)) when: (a) The
20 respondent is fourteen or fifteen years of age, the information alleges
21 a violent or felony sex offense as defined in RCW 9.94A.030, the
22 offender is ineligible for the disposition option under RCW
23 13.40.160(5) or is charged with a violation of RCW 9A.44.050, and the
24 offender is not subject to automatic prosecution in adult criminal
25 court under RCW 13.04.030; or (b) the information alleges escape in the
26 first degree and, at the time of the escape, the respondent was serving
27 a minimum juvenile disposition to age twenty-one.~~

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

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

1 **Sec. 27.** RCW 13.40.125 and 1995 c 395 s 6 are each amended to read
2 as follows:

3 (1) Upon motion at least fourteen days before commencement of
4 trial, the juvenile court has the power, after consulting the
5 juvenile's custodial parent or parents or guardian and with the consent
6 of the juvenile, to continue the case for ~~((adjudication))~~ disposition
7 for a period not to exceed one year from the date ~~((the motion is~~
8 ~~granted))~~ of entry of a plea of guilty or a finding of guilt following
9 a hearing under subsection (5) of this section. The court may continue
10 the case for an additional one-year period for good cause.

11 (2) Any juvenile granted a deferral of ~~((adjudication))~~ disposition
12 under this section shall be placed under community supervision. The
13 court may impose any conditions of supervision that it deems
14 appropriate including posting a probation bond. Payment of
15 restitution, as provided in RCW 13.40.190 shall also be a condition of
16 community supervision under this section.

17 (3) Upon full compliance with conditions of supervision, the
18 respondent's adjudication shall be vacated and the court shall dismiss
19 the case with prejudice.

20 (4) If the juvenile fails to comply with the terms of supervision,
21 the court shall enter an order of ~~((adjudication and proceed to))~~
22 disposition. The juvenile's lack of compliance shall be determined by
23 the judge upon written motion by the prosecutor or the juvenile's
24 juvenile court community supervision counselor. A parent who signed
25 for a probation bond or deposited cash may notify the counselor if the
26 juvenile fails to comply with the bond or conditions of supervision.
27 The counselor shall notify the court and surety. A surety shall notify
28 the court of the juvenile's failure to comply with the probation bond.
29 The state shall bear the burden to prove by a preponderance of the
30 evidence that the juvenile has failed to comply with the terms of
31 community supervision.

32 (5) If the juvenile agrees to a deferral of ~~((adjudication))~~
33 disposition, the juvenile shall waive all rights:

34 (a) To a speedy trial and disposition;

35 (b) To call and confront witnesses; and

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

38 (6) A juvenile is not eligible for a deferred ~~((adjudication))~~
39 disposition if:

- 1 (a) The juvenile's current offense is a sex or violent offense;
2 (b) The juvenile's criminal history includes any felony;
3 (c) The juvenile has a prior deferred ((~~adjudication~~)) disposition;
4 or
5 (d) The juvenile has had more than two diversions.

6 **Sec. 28.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
7 read as follows:

8 (1) The respondent shall be advised of the allegations in the
9 information and shall be required to plead guilty or not guilty to the
10 allegation(s). The state or the respondent may make preliminary
11 motions up to the time of the plea.

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

19 (3) At the adjudicatory hearing it shall be the burden of the
20 prosecution to prove the allegations of the information beyond a
21 reasonable doubt.

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

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

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

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

37 (8) The disposition hearing shall be held within fourteen days
38 after the adjudicatory hearing or plea of guilty unless good cause is

1 shown for further delay, or within twenty-one days if the juvenile is
2 not held in a detention facility, unless good cause is shown for
3 further delay.

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

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

9 **Sec. 29.** RCW 13.40.150 and 1995 c 268 s 5 are each amended to read
10 as follows:

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

21 (2) For purposes of disposition:

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

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

25 (c) In no event may a disposition for a violation include
26 confinement.

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

30 (a) Consider the facts supporting the allegations of criminal
31 conduct by the respondent;

32 (b) Consider information and arguments offered by parties and their
33 counsel;

34 (c) Consider any predisposition reports;

35 (d) Consult with the respondent's parent, guardian, or custodian on
36 the appropriateness of dispositional options under consideration and
37 afford the respondent and the respondent's parent, guardian, or
38 custodian an opportunity to speak in the respondent's behalf;

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

3 (f) Determine the amount of restitution owing to the victim, if
4 any;

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

7 (h) Consider whether or not any of the following mitigating factors
8 exist:

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

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

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

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

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

21 (i) Consider whether or not any of the following aggravating
22 factors exist:

23 (i) In the commission of the offense, or in flight therefrom, the
24 respondent inflicted or attempted to inflict serious bodily injury to
25 another;

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

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

29 (iv) The respondent has a recent criminal history or has failed to
30 comply with conditions of a recent dispositional order or diversion
31 agreement;

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

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

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

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

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

7 (a) The sex of the respondent;

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

9 (c) The creed or religion of the respondent or the respondent's
10 family;

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

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

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

18 **Sec. 30.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read
19 as follows:

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

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

31 A disposition outside the standard range shall be determinate and
32 shall be comprised of confinement or community supervision, or a
33 combination thereof. When a judge finds a manifest injustice and
34 imposes a sentence of confinement exceeding thirty days, the court
35 shall sentence the juvenile to a maximum term, and the provisions of
36 (~~RCW 13.40.030(2)~~) section 31 of this act shall be used to determine
37 the range. A disposition outside the standard range is appealable

1 under RCW 13.40.230 by the state or the respondent. A disposition
2 within the standard range is not appealable under RCW 13.40.230.

3 (2) Where the respondent is found to be a minor or first offender,
4 the court shall order that the respondent serve a term of community
5 supervision as indicated in option A (~~(or option B)~~) of schedule D-1,
6 RCW 13.40.0357 except as provided in subsections (5) and (6) of this
7 section. A minor/first offender receiving an option A disposition may
8 also be required to serve 0 to 10 days in confinement. If the court
9 determines that a disposition of community supervision would effectuate
10 a manifest injustice the court may impose another disposition under
11 option ~~((C))~~ (B) of schedule D-1, RCW 13.40.0357. Except as provided
12 in subsection (5) of this section, a disposition other than a community
13 supervision may be imposed only after the court enters reasons upon
14 which it bases its conclusions that imposition of community supervision
15 would effectuate a manifest injustice. When a judge finds a manifest
16 injustice and imposes a sentence of confinement exceeding thirty days,
17 the court shall sentence the juvenile to a maximum term, and the
18 provisions of ~~((RCW 13.40.030(2)))~~ section 31 of this act shall be used
19 to determine the range. The court's finding of manifest injustice
20 shall be supported by clear and convincing evidence.

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

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

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

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

1 (b) (~~If the middle offender has less than 110 points, the court~~
2 ~~shall impose a determinate disposition of community supervision and/or~~
3 ~~up to thirty days confinement, as indicated in option B of schedule D-~~
4 ~~2, RCW 13.40.0357 in which case, if confinement has been imposed, the~~
5 ~~court shall state either aggravating or mitigating factors as set forth~~
6 ~~in RCW 13.40.150.)) (i) If the middle offender has 110 points or more,~~
7 the court may impose a disposition under option A and may suspend the
8 disposition and impose a determinate disposition of community
9 supervision for a period of up to one year or the maximum term allowed
10 by the standard range whichever is longer, on the condition that the
11 offender serve up to thirty days of confinement and follow all
12 conditions of community supervision. If confinement has been imposed,
13 the court shall state either aggravating or mitigating factors as set
14 forth in RCW 13.40.150. If the offender violates any condition of the
15 disposition including conditions of a probation bond, the court may
16 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension
17 and order execution of the disposition. The court shall give credit
18 for any confinement time previously served if that confinement was for
19 the offense for which the suspension is being revoked; or

20 (ii) If the respondent is a middle offender with 110 points or more
21 the court may impose the special disposition option under section 32 of
22 this act.

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

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

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

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

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

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

12 ((~~a~~))(i) Frequency and type of contact between the offender and
13 therapist;

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

16 (iii) Monitoring plans, including any requirements regarding living
17 conditions, lifestyle requirements, and monitoring by family members,
18 legal guardians, or others;

19 (iv) Anticipated length of treatment; and

20 (v) Recommended crime-related prohibitions.

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

27 After receipt of reports of the examination, the court shall then
28 consider whether the offender and the community will benefit from use
29 of this special sex offender disposition alternative and consider the
30 victim's opinion whether the offender should receive a treatment
31 disposition under this section. If the court determines that this
32 special sex offender disposition alternative is appropriate, then the
33 court shall impose a determinate disposition within the standard range
34 for the offense, ((and)) or if the court concludes, and enters reasons
35 for its conclusion, that such disposition would effectuate a manifest
36 injustice, the court shall impose a disposition pursuant to option B of
37 schedule D-1, option C of schedule D-2, or option B of schedule D-3 as
38 appropriate.

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

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

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

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

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

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

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

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

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

31 (viii) Comply with the conditions of any court-ordered probation
32 bond.

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

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

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

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

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

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

35 (7) Whenever a juvenile offender is entitled to credit for time
36 spent in detention prior to a dispositional order, the dispositional
37 order shall specifically state the number of days of credit for time
38 served.

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

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

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

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

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

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

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

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

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

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

1 evaluation measures used. The report shall set forth the sources of
2 the examiner's information.

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

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

8 (b) Availability of appropriate treatment;

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

12 (d) Anticipated length of treatment;

13 (e) Recommended crime-related prohibitions; and

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

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

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

28 (b) If the court determines that this chemical dependent
29 disposition alternative is appropriate, then the court shall impose the
30 standard range for the offense, suspend execution of the disposition,
31 and place the offender on community supervision for up to one year. As
32 a condition of the suspended disposition, the court shall require the
33 offender to undergo available outpatient drug/alcohol treatment and/or
34 inpatient drug/alcohol treatment. For purposes of this section, the
35 sum of confinement time and inpatient treatment may not exceed ninety
36 days. As a condition of the suspended disposition, the court may
37 impose conditions of community supervision and other sanctions,
38 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. 33.** RCW 13.40.190 and 1995 c 33 s 5 are each amended to read
29 as follows:

30 (1) In its dispositional order, the court shall require the
31 respondent to make restitution to any persons who have suffered loss or
32 damage as a result of the offense committed by the respondent. In
33 addition, restitution may be ordered for loss or damage if the offender
34 pleads guilty to a lesser offense or fewer offenses and agrees with the
35 prosecutor's recommendation that the offender be required to pay
36 restitution to a victim of an offense or offenses (~~which, pursuant~~
37 ~~to~~) that, under a plea agreement, are not prosecuted. The payment of
38 restitution shall be in addition to any punishment (~~which~~) that is

1 imposed (~~pursuant to~~) under the other provisions of this chapter.
2 The court may determine the amount, terms, and conditions of the
3 restitution including a payment plan extending up to ten years if the
4 court determines that the respondent does not have the means to make
5 full restitution over a shorter period. Restitution may include the
6 costs of counseling reasonably related to the offense. If the
7 respondent participated in the crime with another person or other
8 persons, all (~~such~~) the participants (~~shall be~~) are jointly and
9 severally responsible for the payment of restitution. For the purposes
10 of this section, the respondent shall remain under the court's
11 jurisdiction for a maximum term of ten years after the respondent's
12 eighteenth birthday. The court may not require the respondent to pay
13 full or partial restitution if the respondent reasonably satisfies the
14 court that he or she does not have the means to make full or partial
15 restitution and could not reasonably acquire the means to pay (~~such~~)
16 the restitution over a ten-year period. In cases where an offender has
17 been committed to the department for a period of confinement exceeding
18 fifteen weeks, restitution may be waived. In all cases, the court must
19 indicate the full amount of restitution due, and the amount, if any,
20 the respondent is required to pay.

21 (2) Regardless of the provisions of subsection (1) of this section,
22 the court shall order restitution in all cases where the victim is
23 entitled to benefits under the crime victims' compensation act, chapter
24 7.68 RCW. If the court does not order restitution and the victim of
25 the crime has been determined to be entitled to benefits under the
26 crime victims' compensation act, the department of labor and
27 industries, as administrator of the crime victims' compensation
28 program, may petition the court within one year of entry of the
29 disposition order for entry of a restitution order. Upon receipt of a
30 petition from the department of labor and industries, the court shall
31 hold a restitution hearing and shall enter a restitution order.

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

36 (4) Restitution received under section 11 of this act must be
37 credited against the restitution the respondent is required to pay
38 under the disposition, unless the court did not order the respondent to
39 make full restitution. In that case, only the amount received under

1 section 11 of this act that exceeds the full amount of restitution due
2 should be credited against the respondent's restitution obligation.

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

5 **Sec. 34.** RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended
6 to read as follows:

7 (1) For purposes of this chapter:

8 (a) "Juvenile justice or care agency" means any of the following:
9 Police, diversion units, court, prosecuting attorney, defense attorney,
10 detention center, attorney general, the department of social and health
11 services and its contracting agencies, schools; and, in addition,
12 persons or public or private agencies having children committed to
13 their custody;

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

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

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

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

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

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

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

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

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

4 (5) Any person who has reasonable cause to believe information
5 concerning that person is included in the records of a juvenile justice
6 or care agency and who has been denied access to those records by the
7 agency may make a motion to the court for an order authorizing that
8 person to inspect the juvenile justice or care agency record concerning
9 that person. The court shall grant the motion to examine records
10 unless it finds that in the interests of justice or in the best
11 interests of the juvenile the records or parts of them should remain
12 confidential.

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

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

25 (8) The court may permit inspection of records by, or release of
26 information to, any clinic, hospital, or agency which has the subject
27 person under care or treatment. The court may also permit inspection
28 by or release to individuals or agencies, including juvenile justice
29 advisory committees of county law and justice councils, engaged in
30 legitimate research for educational, scientific, or public purposes.
31 The court may also permit inspection of, or release of information
32 from, records which have been sealed pursuant to RCW 13.50.050(11).
33 The court shall release to the sentencing guidelines commission records
34 needed for its research and data-gathering functions under RCW
35 9.94A.040, 13.40.027, 13.40.030, and other statutes. Access to records
36 or information for research purposes shall be permitted only if the
37 anonymity of all persons mentioned in the records or information will
38 be preserved. Each person granted permission to inspect juvenile
39 justice or care agency records for research purposes shall present a

1 notarized statement to the court stating that the names of juveniles
2 and parents will remain confidential.

3 (9) Juvenile detention facilities shall release records to the
4 juvenile disposition standards commission under RCW 13.40.025 upon
5 request. The commission shall not disclose the names of any juveniles
6 or parents mentioned in the records without the named individual's
7 written permission.

8 **Sec. 35.** RCW 13.50.050 and 1992 c 188 s 7 are each amended to read
9 as follows:

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

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

15 (3) All records other than the official juvenile court file are
16 confidential and may be released only as provided in this section, RCW
17 13.50.010, 13.40.215, and 4.24.550.

18 (4) Except as otherwise provided in this section and RCW 13.50.010,
19 records retained or produced by any juvenile justice or care agency may
20 be released to other participants in the juvenile justice or care
21 system only when an investigation or case involving the juvenile in
22 question is being pursued by the other participant or when that other
23 participant is assigned the responsibility for supervising the
24 juvenile.

25 (5) Except as provided in RCW 4.24.550, information not in an
26 official juvenile court file concerning a juvenile or a juvenile's
27 family may be released to the public only when that information could
28 not reasonably be expected to identify the juvenile or the juvenile's
29 family.

30 (6) Notwithstanding any other provision of this chapter, the
31 release, to the juvenile or his or her attorney, of law enforcement and
32 prosecuting attorneys' records pertaining to investigation, diversion,
33 and prosecution of juvenile offenses shall be governed by the rules of
34 discovery and other rules of law applicable in adult criminal
35 investigations and prosecutions.

36 (7) The juvenile court and the prosecutor may set up and maintain
37 a central record-keeping system which may receive information on all
38 alleged juvenile offenders against whom a complaint has been filed

1 pursuant to RCW 13.40.070 whether or not their cases are currently
2 pending before the court. The central record-keeping system may be
3 computerized. If a complaint has been referred to a diversion unit,
4 the diversion unit shall promptly report to the juvenile court or the
5 prosecuting attorney when the juvenile has agreed to diversion. An
6 offense shall not be reported as criminal history in any central
7 record-keeping system without notification by the diversion unit of the
8 date on which the offender agreed to diversion.

9 (8) Upon request of the victim of a crime or the victim's immediate
10 family, the identity of an alleged or proven juvenile offender alleged
11 or found to have committed a crime against the victim and the identity
12 of the alleged or proven juvenile offender's parent, guardian, or
13 custodian and the circumstance of the alleged or proven crime shall be
14 released to the victim of the crime or the victim's immediate family.

15 (9) Subject to the rules of discovery applicable in adult criminal
16 prosecutions, the juvenile offense records of an adult criminal
17 defendant or witness in an adult criminal proceeding shall be released
18 upon request to prosecution and defense counsel after a charge has
19 actually been filed. The juvenile offense records of any adult
20 convicted of a crime and placed under the supervision of the adult
21 corrections system shall be released upon request to the adult
22 corrections system.

23 (10) In any case in which an information has been filed pursuant to
24 RCW 13.40.100 or a complaint has been filed with the prosecutor and
25 referred for diversion pursuant to RCW 13.40.070, the person the
26 subject of the information or complaint may file a motion with the
27 court to have the court vacate its order and findings, if any, and,
28 subject to subsection (24) of this section, order the sealing of the
29 official juvenile court file, the social file, and records of the court
30 and of any other agency in the case.

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

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

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

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

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

6 (13) If the court grants the motion to seal made pursuant to
7 subsection (10) of this section, it shall, subject to subsection (24)
8 of this section, order sealed the official juvenile court file, the
9 social file, and other records relating to the case as are named in the
10 order. Thereafter, the proceedings in the case shall be treated as if
11 they never occurred, and the subject of the records may reply
12 accordingly to any inquiry about the events, records of which are
13 sealed. Any agency shall reply to any inquiry concerning confidential
14 or sealed records that records are confidential, and no information can
15 be given about the existence or nonexistence of records concerning an
16 individual.

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

22 (15) Any adjudication of a juvenile offense or a crime subsequent
23 to sealing has the effect of nullifying the sealing order. Any
24 conviction for any adult felony subsequent to the sealing has the
25 effect of nullifying the sealing order for the purposes of chapter
26 9.94A RCW for any juvenile adjudication of guilt for a class A offense,
27 a violent offense, or a sex offense as defined in RCW 9.94A.030.

28 (16) In any case in which an information has been filed pursuant to
29 RCW 13.40.100 or a complaint has been filed with the prosecutor and
30 referred for diversion pursuant to RCW 13.40.070, the person who is the
31 subject of the information or complaint may file a motion with the
32 court to have the court vacate its order and findings, if any, and,
33 subject to subsection (24) of this section, order the destruction of
34 the official juvenile court file, the social file, and records of the
35 court and of any other agency in the case.

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

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

- 1 (b) The person has not subsequently been convicted of a felony;
2 (c) No proceeding is pending against that person seeking the
3 conviction of a criminal offense; and
4 (d) The person has never been found guilty of a serious offense.

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

11 (19) If the court grants the motion to destroy records made
12 pursuant to subsection (16) or (18) of this section, it shall, subject
13 to subsection (24) of this section, order the official juvenile court
14 file, the social file, and any other records named in the order to be
15 destroyed.

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

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

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

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

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

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

1 (24) No identifying information held by the Washington state patrol
2 in accordance with chapter 43.43 RCW is subject to destruction or
3 sealing under this section. For the purposes of this subsection,
4 identifying information includes photographs, fingerprints, palmprints,
5 soleprints, toeprints and any other data that identifies a person by
6 physical characteristics, name, birthdate or address, but does not
7 include information regarding criminal activity, arrest, charging,
8 diversion, conviction or other information about a person's treatment
9 by the criminal justice system or about the person's behavior.

10 (25) Information identifying child victims under age eighteen who
11 are victims of sexual assaults by juvenile offenders is confidential
12 and not subject to release to the press or public without the
13 permission of the child victim or the child's legal guardian.
14 Identifying information includes the child victim's name, addresses,
15 location, photographs, and in cases in which the child victim is a
16 relative of the alleged perpetrator, identification of the relationship
17 between the child and the alleged perpetrator. Information identifying
18 a child victim of sexual assault may be released to law enforcement,
19 prosecutors, judges, defense attorneys, or private or governmental
20 agencies that provide services to the child victim of sexual assault.

21 NEW SECTION. **Sec. 36.** A new section is added to chapter 28A.175
22 RCW to read as follows:

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

28 NEW SECTION. **Sec. 37.** A new section is added to chapter 28A.225
29 RCW to read as follows:

30 References to juvenile court in this chapter mean, in addition to
31 the juvenile court of the superior court, courts of limited
32 jurisdiction that have acquired jurisdiction pursuant to RCW
33 13.04.030(1)(e)(iv) and section 14 of this act over juveniles who
34 violate the provisions of this chapter. If a court of limited
35 jurisdiction has jurisdiction over juveniles who violate this chapter,
36 that court also has jurisdiction over parents charged with violations
37 of this chapter.

1 **Sec. 38.** RCW 35.20.030 and 1993 c 83 s 3 are each amended to read
2 as follows:

3 The municipal court shall have jurisdiction to try violations of
4 all city ordinances and all other actions brought to enforce or recover
5 license penalties or forfeitures declared or given by any such
6 ordinances. It is empowered to forfeit cash bail or bail bonds and
7 issue execution thereon, to hear and determine all causes, civil or
8 criminal, arising under such ordinances, and to pronounce judgment in
9 accordance therewith: PROVIDED, That for a violation of the criminal
10 provisions of an ordinance no greater punishment shall be imposed than
11 a fine of five thousand dollars or imprisonment in the city jail not to
12 exceed one year, or both such fine and imprisonment, but the punishment
13 for any criminal ordinance shall be the same as the punishment provided
14 in state law for the same crime. The municipal court shall also have
15 jurisdiction over juvenile offenses prosecuted pursuant to chapter
16 13.40 RCW if the court has acquired jurisdiction pursuant to RCW
17 13.04.030(1)(e)(iv) and section 14 of this act. All civil and criminal
18 proceedings in municipal court, and judgments rendered therein, shall
19 be subject to review in the superior court by writ of review or on
20 appeal: PROVIDED, That an appeal from the court's determination or
21 order in a traffic infraction proceeding may be taken only in
22 accordance with RCW 46.63.090(5). Costs in civil and criminal cases
23 may be taxed as provided in district courts.

24 NEW SECTION. **Sec. 39.** A new section is added to chapter 72.09 RCW
25 to read as follows:

26 The department shall not construct any new building, acquire any
27 building, nor renovate any existing building used for prerelease or
28 work release programs, on the grounds of western state hospital.

29 **Sec. 40.** RCW 72.01.410 and 1994 c 220 s 1 are each amended to read
30 as follows:

31 (1) Whenever any child under the age of eighteen is convicted in
32 the courts of this state of a crime amounting to a felony, and is
33 committed for a term of confinement in a correctional institution
34 wherein adults are confined, the secretary of corrections, after making
35 an independent assessment and evaluation of the child and determining
36 that the needs and correctional goals for the child could better be met
37 by the programs and housing environment provided by the juvenile

1 correctional institution, with the consent of the secretary of social
2 and health services, may transfer such child to a juvenile correctional
3 institution, or to such other institution as is now, or may hereafter
4 be authorized by law to receive such child, until such time as the
5 child arrives at the age of twenty-one years, whereupon the child shall
6 be returned to the institution of original commitment. Retention
7 within a juvenile detention facility or return to an adult correctional
8 facility shall regularly be reviewed by the secretary of corrections
9 and the secretary of social and health services with a determination
10 made based on the level of maturity and sophistication of the
11 individual, the behavior and progress while within the juvenile
12 detention facility, security needs, and the program/treatment
13 alternatives which would best prepare the individual for a successful
14 return to the community. Notice of such transfers shall be given to
15 the clerk of the committing court and the parents, guardian, or next of
16 kin of such child, if known.

17 (2) Juveniles under age sixteen who are automatically prosecuted as
18 adults under RCW 13.04.030 and committed to the department of
19 corrections may be transferred to the department of social and health
20 services for housing without an independent assessment and evaluation.
21 Those juveniles must be transferred to the department of corrections
22 for housing at age eighteen unless the secretary of the department of
23 corrections and department of social and health services agree to
24 continue housing a juvenile in juvenile institutions pursuant to
25 subsection (1) of this section. Juvenile offenders under age sixteen
26 who are convicted as adults may be housed in department of corrections
27 facilities if housing them in juvenile institutions poses a security
28 risk for others or themselves. If the department of corrections has
29 the funding and beds available to house juvenile offenders under age
30 sixteen in adult corrections facilities separated from adult offenders
31 over age eighteen, then the younger offenders may be housed in the
32 department of corrections.

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

1 **Sec. 41.** RCW 72.09.300 and 1994 sp.s. c 7 s 542 are each amended
2 to read as follows:

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

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

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

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

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

29 (c) A description of current jail resources;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 NEW SECTION. Sec. 42. If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. Sec. 43. Sections 2, 8 through 14, 16, 21, 25, 26,
19 29, 30, 32, 33, 37, and 38 of this act apply only to offenses, and
20 curfew violations committed by juveniles, committed on or after the
21 effective date of this section.

22 NEW SECTION. Sec. 44. (1) Sections 18 and 19 of this act shall
23 take effect June 30, 1996.

24 (2) Sections 1 through 3, 5 through 17, and 20 through 43 of this
25 act shall take effect July 1, 1996.

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

30 **Sec. 45.** 1995 c 269 s 3603 (uncodified) is amended to read as
31 follows:

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

33 NEW SECTION. Sec. 46. Sections 14, 37, and 38 of this act shall
34 expire June 30, 1998.

1 NEW SECTION. **Sec. 47.** For fiscal year 1997, four million seven
2 hundred seventy-eight thousand dollars is appropriated from the state
3 general fund to the state treasurer for transfer to the county criminal
4 justice assistance account. The amount appropriated in this section
5 shall be distributed to counties in accordance with RCW 82.14.310.

--- END ---