
SENATE BILL 5191

State of Washington

54th Legislature

1995 Regular Session

By Senators Smith, Roach, Haugen, McCaslin, Schow, Long, Rasmussen, Deccio, Hale and Palmer

Read first time 01/13/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes committed by juveniles; amending RCW
2 13.04.030, 13.40.040, 13.40.050, 13.40.130, 28A.225.020, 28A.225.030,
3 28A.225.150, 74.13.032, 13.32A.030, 13.32A.130, 70.96A.140, 71.34.030,
4 71.34.050, 71.34.070, 13.40.320, 13.40.185, 13.40.160, 13.40.210,
5 13.40.025, 13.40.027, 13.40.030, 9A.04.050, 13.40.060, and 13.40.0357;
6 reenacting and amending RCW 13.40.020; adding a new section to chapter
7 28A.225 RCW; creating a new section; and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
10 establish and assure a body of law that will assist parents who
11 struggle with runaway, truancy, and criminal conduct by their children.
12 At the same time, parents must be held accountable to ensure that their
13 responsibilities to their children and to society are carried out.

14 In order to meet those goals the legislature adopts these revisions
15 to the 1977 juvenile justice act emphasizing juvenile and parental
16 accountability and encouraging early and effective intervention in the
17 lives of juveniles at risk to become runaways, truants, or criminal
18 offenders.

1 **Sec. 2.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended to
2 read as follows:

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

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

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

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

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

14 (e) Relating to juveniles alleged or found to have committed
15 offenses, traffic infractions, or violations as provided in RCW
16 13.40.020 through 13.40.230, unless:

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

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

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

37 (iv) The juvenile is sixteen or seventeen years old and the alleged
38 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
39 committed on or after June 13, 1994; or (B) a violent offense as

1 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
2 juvenile has a criminal history consisting of: (I) One or more prior
3 serious violent offenses; (II) two or more prior violent offenses; or
4 (III) three or more of any combination of the following offenses: Any
5 class A felony, any class B felony, vehicular assault, or manslaughter
6 in the second degree, all of which must have been committed after the
7 juvenile's thirteenth birthday and prosecuted separately. In such a
8 case the adult criminal court shall have exclusive original
9 jurisdiction.

10 If the juvenile challenges the state's determination of the
11 juvenile's criminal history, the state may establish the offender's
12 criminal history by a preponderance of the evidence. If the criminal
13 history consists of adjudications entered upon a plea of guilty, the
14 state shall not bear a burden of establishing the knowing and
15 voluntariness of the plea;

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

18 (g) Relating to termination of a diversion agreement under RCW
19 13.40.080, including a proceeding in which the divertee has attained
20 eighteen years of age; and

21 (h) Relating to court validation of a voluntary consent to foster
22 care placement under chapter 13.34 RCW, by the parent or Indian
23 custodian of an Indian child, except if the parent or Indian custodian
24 and child are residents of or domiciled within the boundaries of a
25 federally recognized Indian reservation over which the tribe exercises
26 exclusive jurisdiction.

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

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

35 (4) A parent, guardian, or custodian who has custody of any
36 juvenile described in this section, if such parent, guardian, or
37 custodian was served with summons, shall be subject to the jurisdiction
38 of the court for purposes of this section.

1 **Sec. 3.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to read
2 as follows:

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

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

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

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

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

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

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

20 (i) The juvenile will likely fail to appear for further
21 proceedings; or

22 (ii) Detention is required to protect the juvenile from himself or
23 herself; or

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

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

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

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

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

31 (d) The juvenile is a material witness.

32 (3) Upon a finding that members of the community have threatened
33 the health of a juvenile taken into custody, at the juvenile's request
34 the court may order continued detention pending further order of the
35 court.

36 (4) A juvenile detained under this section may be released upon
37 posting bond set by the court. A court authorizing such a release
38 shall issue an order containing a statement of conditions imposed upon
39 the juvenile and shall set the date of his or her next court

1 appearance. The court shall advise the juvenile of any conditions
2 specified in the order and may at any time amend such an order in order
3 to impose additional or different conditions of release upon the
4 juvenile or to return the juvenile to custody for failing to conform to
5 the conditions imposed. A juvenile shall not be released except to a
6 responsible adult. Failure to appear on the date scheduled by the
7 court pursuant to this section shall constitute the crime of bail
8 jumping.

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

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

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

16 (b) A detention hearing, a community supervision modification or
17 termination of diversion petition, or a parole modification petition
18 shall be held within seventy-two hours, Saturdays, Sundays, and
19 holidays excluded, from the time of filing the information or petition,
20 to determine whether continued detention is necessary under RCW
21 13.40.040.

22 (2) Notice of the detention hearing, stating the time, place, and
23 purpose of the hearing, (~~and~~) stating the right to counsel, and
24 requiring attendance, shall be given to the parent, guardian, or
25 custodian if such person can be found and shall also be given to the
26 juvenile if over twelve years of age.

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

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

35 (5) Notwithstanding a determination that the case is properly
36 before the court and that probable cause exists, a juvenile shall at
37 the detention hearing be ordered released on the juvenile's personal

1 recognizance pending further hearing unless the court finds detention
2 is necessary under RCW 13.40.040 (~~as now or hereafter amended~~)).

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

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

9 (b) Place restrictions on the travel of the juvenile during the
10 period of release;

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

13 (d) Impose any condition other than detention deemed reasonably
14 necessary to assure appearance as required; or

15 (e) Require that the juvenile return to detention during specified
16 hours.

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

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

22 (9) If the person notified as provided in this section fails
23 without reasonable cause to appear and abide the order of the court,
24 the person may be proceeded against as for contempt of court.

25 **Sec. 5.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to read
26 as follows:

27 (1) The respondent shall be advised of the allegations in the
28 information and shall be required to plead guilty or not guilty to the
29 allegation(s). The state or the respondent may make preliminary
30 motions up to the time of the plea.

31 (2) If the respondent pleads guilty, the court may proceed with
32 disposition or may continue the case for a dispositional hearing. If
33 the respondent denies guilt, an adjudicatory hearing date shall be set.
34 The court shall notify the parent, guardian, or custodian who has
35 custody of any juvenile described in the charging document of the date,
36 time, and place of the dispositional or adjudicatory hearing, and
37 require attendance.

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

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

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

9 (6) If the respondent is found guilty the court may immediately
10 proceed to disposition or may continue the case for a dispositional
11 hearing. Notice of the time and place of the continued hearing may be
12 given in open court. If notice is not given in open court to a party,
13 the party and the parent, guardian, or custodian who has custody of the
14 juvenile shall be notified by mail of the time and place of the
15 continued hearing.

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

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

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

26 (10) If the person notified as provided in this section fails
27 without reasonable cause to appear and abide the order of the court,
28 the person may be proceeded against as for contempt of court.

29 **Sec. 6.** RCW 28A.225.020 and 1992 c 205 s 202 are each amended to
30 read as follows:

31 If a juvenile required to attend school under the laws of the state
32 of Washington fails to attend school without valid justification, the
33 juvenile's school shall:

34 (1) Inform the juvenile's custodial parent, parents or guardian by
35 a notice in writing or by telephone that the juvenile has failed to
36 attend school without valid justification after one unexcused absence
37 within any month during the current school year;

1 (2) Schedule a conference or conferences with the custodial parent,
2 parents or guardian and juvenile at a time and place reasonably
3 convenient for all persons included for the purpose of analyzing the
4 causes of the juvenile's absences after two unexcused absences within
5 any month during the current school year. If a regularly scheduled
6 parent-teacher conference day is to take place within thirty days of
7 the second unexcused absence, then the school district may schedule
8 this conference on that day; and

9 (3) Take steps to eliminate or reduce the juvenile's absences.
10 These steps shall include, where appropriate, adjusting the juvenile's
11 school program or school or course assignment, providing more
12 individualized or remedial instruction, preparing the juvenile for
13 employment with specific vocational courses or work experience, or
14 ((both)) refer the juvenile to a community truancy board, and assisting
15 the parent or student to obtain supplementary services that might
16 eliminate or ameliorate the cause or causes for the absence from
17 school.

18 **Sec. 7.** RCW 28A.225.030 and 1992 c 205 s 203 are each amended to
19 read as follows:

20 If action taken by a school pursuant to RCW 28A.225.020 is not
21 successful in substantially reducing a student's absences from school,
22 any of the following actions may be taken after five or more unexcused
23 absences during the current school year: (1) The attendance officer of
24 the school district or the community truancy board through its attorney
25 may petition the ((juvenile)) court to assume jurisdiction under RCW
26 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150 for the
27 purpose of alleging a violation of RCW 28A.225.010 by the parent; or
28 (2) a petition alleging a violation of RCW 28A.225.010 by a child may
29 be filed with the ((juvenile)) court by the parent of such child or by
30 the attendance officer of the school district or the community truancy
31 board through its attorney at the request of the parent. If the court
32 assumes jurisdiction in such an instance, the provisions of RCW
33 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150, except
34 where otherwise stated, shall apply.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.225
36 RCW to read as follows:

1 For purposes of this chapter, "community truancy board" means a
2 board comprised of members of the local community in which the juvenile
3 attends school. The local school district shall direct the formation
4 of the board, and if possible include a variety of representatives from
5 the community. The community truancy board shall set conditions
6 designed to improve school attendance and monitor subsequent school
7 attendance.

8 **Sec. 9.** RCW 28A.225.150 and 1992 c 205 s 205 are each amended to
9 read as follows:

10 The school district attendance officer shall report biannually to
11 the educational service district superintendent, in the instance of
12 petitions filed alleging a violation by a child under RCW 28A.225.030:

13 (1) The number of petitions filed by a school district or by a
14 parent;

15 (2) The frequency of each action taken under RCW 28A.225.020 prior
16 to the filing of such petition;

17 (3) When deemed appropriate under RCW 28A.225.020, the frequency of
18 delivery of supplemental services; and

19 (4) Disposition of cases filed with the ((juvenile)) court,
20 including the frequency of contempt orders issued to enforce a court's
21 order under RCW 28A.225.090.

22 The educational service district superintendent shall compile such
23 information and report annually to the superintendent of public
24 instruction. The superintendent of public instruction shall compile
25 such information and report to the committees of the house of
26 representatives and the senate by September 1 of each year.

27 **Sec. 10.** RCW 74.13.032 and 1979 c 155 s 78 are each amended to
28 read as follows:

29 (1) The department shall establish, by contracts with private
30 vendors, ((not less than eight regional)) crisis residential centers
31 geographically located pursuant to a need-based formula developed by
32 the Washington association of sheriffs and police chiefs having a
33 state-wide total of at least two hundred eighty beds, which shall be
34 structured group care facilities licensed under rules adopted by the
35 department. Each regional center shall have an average of at least
36 four adult staff members and in no event less than three adult staff
37 members to every eight children. The staff shall be trained so that

1 they may effectively counsel juveniles admitted to the centers, provide
2 treatment, supervision, and structure to the juveniles, and carry out
3 the responsibilities outlined in RCW 13.32A.090.

4 (2) The department shall, in addition to the regional facilities
5 established under subsection (1) of this section, establish not less
6 than thirty additional crisis residential centers pursuant to contract
7 with licensed private group care or specialized foster home facilities.
8 The staff at the facilities shall be trained so that they may
9 effectively counsel juveniles admitted to the centers, provide
10 treatment, supervision, and structure to the juveniles, and carry out
11 the responsibilities stated in RCW 13.32A.090. The responsibilities
12 stated in RCW 13.32A.090 may, in any of the centers, be carried out by
13 the department.

14 Crisis residential (~~facilities shall be operated as semi-secure~~
15 ~~facilities~~) center means a facility operated in a manner to reasonably
16 assure that juveniles placed there will not run away.

17 **Sec. 11.** RCW 13.32A.030 and 1990 c 276 s 3 are each amended to
18 read as follows:

19 As used in this chapter the following terms have the meanings
20 indicated unless the context clearly requires otherwise:

21 (1) "Department" means the department of social and health
22 services;

23 (2) "Child," "juvenile," and "youth" mean any individual who is
24 under the chronological age of eighteen years;

25 (3) "Parent" means the legal custodian(s) or guardian(s) of a
26 child;

27 (4) "Semi-secure facility" means any facility, including but not
28 limited to (~~crisis residential centers or~~) specialized foster family
29 homes, operated in a manner to reasonably assure that youth placed
30 there will not run away: PROVIDED, That such facility shall not be a
31 secure institution or facility as defined by the federal juvenile
32 justice and delinquency prevention act of 1974 (P.L. 93-415; 42 U.S.C.
33 Sec. 5634 et seq.) and regulations and clarifying instructions
34 promulgated thereunder. Pursuant to rules established by the
35 department, the facility administrator shall establish reasonable hours
36 for residents to come and go from the facility such that no residents
37 are free to come and go at all hours of the day and night. To prevent
38 residents from taking unreasonable actions, the facility administrator,

1 where appropriate, may condition a resident's leaving the facility upon
2 the resident being accompanied by the administrator or the
3 administrator's designee and the resident may be required to notify the
4 administrator or the administrator's designee of any intent to leave,
5 his or her intended destination, and the probable time of his or her
6 return to the ~~((center))~~ facility. The facility administrator shall
7 notify a parent and the appropriate law enforcement agency within four
8 hours of all unauthorized leaves;

9 (5) "At-risk youth" means an individual under the chronological age
10 of eighteen years who:

11 (a) Is absent from home for more than seventy-two consecutive hours
12 without consent of his or her parent;

13 (b) Is beyond the control of his or her parent such that the
14 child's behavior substantially endangers the health, safety, or welfare
15 of the child or any other person; or

16 (c) Has a serious substance abuse problem for which there are no
17 pending criminal charges related to the substance abuse.

18 **Sec. 12.** RCW 13.32A.130 and 1994 sp.s. c 7 s 508 are each amended
19 to read as follows:

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

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

10 **Sec. 13.** RCW 70.96A.140 and 1993 c 362 s 1 are each amended to
11 read as follows:

12 (1) When a designated chemical dependency specialist receives
13 information alleging that a person is incapacitated as a result of
14 chemical dependency, the designated chemical dependency specialist,
15 after investigation and evaluation of the specific facts alleged and of
16 the reliability and credibility of the information, may file a petition
17 for commitment of such person with the superior court or district
18 court.

19 If a petition for commitment is not filed in the case of a minor,
20 the parent, guardian, or custodian who has custody of the minor may
21 seek review of that decision made by the designated chemical dependency
22 specialist in superior or district court. The parent, guardian, or
23 custodian shall file notice with the court and provide a copy of the
24 designated chemical dependency specialist's report.

25 If the designated chemical dependency specialist finds that the
26 initial needs of such person would be better served by placement within
27 the mental health system, the person shall be referred to an evaluation
28 and treatment facility as defined in RCW 71.05.020 or 71.34.020. If
29 placement in a chemical dependency program is available and deemed
30 appropriate, the petition shall allege that: The person is chemically
31 dependent and is incapacitated by alcohol or drug addiction, or that
32 the person has twice before in the preceding twelve months been
33 admitted for detoxification or chemical dependency treatment pursuant
34 to RCW 70.96A.110, and is in need of a more sustained treatment
35 program, or that the person is chemically dependent and has threatened,
36 attempted, or inflicted physical harm on another and is likely to
37 inflict physical harm on another unless committed. A refusal to
38 undergo treatment, by itself, does not constitute evidence of lack of

1 judgment as to the need for treatment. The petition shall be
2 accompanied by a certificate of a licensed physician who has examined
3 the person within five days before submission of the petition, unless
4 the person whose commitment is sought has refused to submit to a
5 medical examination, in which case the fact of refusal shall be alleged
6 in the petition. The certificate shall set forth the licensed
7 physician's findings in support of the allegations of the petition. A
8 physician employed by the petitioning program or the department is
9 eligible to be the certifying physician.

10 (2) Upon filing the petition, the court shall fix a date for a
11 hearing no less than two and no more than seven days after the date the
12 petition was filed unless the person petitioned against is presently
13 being detained in a program, pursuant to RCW 70.96A.120, 71.05.210, or
14 71.34.050, (~~as now or hereafter amended,~~) in which case the hearing
15 shall be held within seventy-two hours of the filing of the petition:
16 PROVIDED, HOWEVER, That the above specified seventy-two hours shall be
17 computed by excluding Saturdays, Sundays, and holidays: PROVIDED
18 FURTHER, That, the court may, upon motion of the person whose
19 commitment is sought, or upon motion of petitioner with written
20 permission of the person whose commitment is sought, or his or her
21 counsel and, upon good cause shown, extend the date for the hearing.
22 A copy of the petition and of the notice of the hearing, including the
23 date fixed by the court, shall be served by the designated chemical
24 dependency specialist on the person whose commitment is sought, his or
25 her next of kin, a parent or his or her legal guardian if he or she is
26 a minor, and any other person the court believes advisable. A copy of
27 the petition and certificate shall be delivered to each person
28 notified.

29 (3) At the hearing the court shall hear all relevant testimony,
30 including, if possible, the testimony, which may be telephonic, of at
31 least one licensed physician who has examined the person whose
32 commitment is sought. Communications otherwise deemed privileged under
33 the laws of this state are deemed to be waived in proceedings under
34 this chapter when a court of competent jurisdiction in its discretion
35 determines that the waiver is necessary to protect either the detained
36 person or the public. The waiver of a privilege under this section is
37 limited to records or testimony relevant to evaluation of the detained
38 person for purposes of a proceeding under this chapter. Upon motion by
39 the detained person, or on its own motion, the court shall examine a

1 record or testimony sought by a petitioner to determine whether it is
2 within the scope of the waiver.

3 The record maker shall not be required to testify in order to
4 introduce medical, nursing, or psychological records of detained
5 persons so long as the requirements of RCW 5.45.020 are met, except
6 that portions of the record that contain opinions as to whether the
7 detained person is chemically dependent shall be deleted from the
8 records unless the person offering the opinions is available for cross-
9 examination. The person shall be present unless the court believes
10 that his or her presence is likely to be injurious to him or her; in
11 this event the court may deem it appropriate to appoint a guardian ad
12 litem to represent him or her throughout the proceeding. If deemed
13 advisable, the court may examine the person out of courtroom. If the
14 person has refused to be examined by a licensed physician, he or she
15 shall be given an opportunity to be examined by a court appointed
16 licensed physician. If he or she refuses and there is sufficient
17 evidence to believe that the allegations of the petition are true, or
18 if the court believes that more medical evidence is necessary, the
19 court may make a temporary order committing him or her to the
20 department for a period of not more than five days for purposes of a
21 diagnostic examination.

22 (4) If after hearing all relevant evidence, including the results
23 of any diagnostic examination, the court finds that grounds for
24 involuntary commitment have been established by clear, cogent, and
25 convincing proof, it shall make an order of commitment to an approved
26 treatment program. It shall not order commitment of a person unless it
27 determines that an approved treatment program is available and able to
28 provide adequate and appropriate treatment for him or her.

29 (5) A person committed under this section shall remain in the
30 program for treatment for a period of sixty days unless sooner
31 discharged. At the end of the sixty-day period, he or she shall be
32 discharged automatically unless the program, before expiration of the
33 period, files a petition for his or her recommitment upon the grounds
34 set forth in subsection (1) of this section for a further period of
35 ninety days unless sooner discharged.

36 If a petition for recommitment is not filed in the case of a minor,
37 the parent, guardian, or custodian who has custody of the minor may
38 seek review of that decision made by the designated chemical dependency
39 specialist in superior or district court. The parent, guardian, or

1 custodian shall file notice with the court and provide a copy of the
2 treatment progress report.

3 If a person has been committed because he or she is chemically
4 dependent and likely to inflict physical harm on another, the program
5 shall apply for recommitment if after examination it is determined that
6 the likelihood still exists.

7 (6) Upon the filing of a petition for recommitment under subsection
8 (5) of this section, the court shall fix a date for hearing no less
9 than two and no more than seven days after the date the petition was
10 filed: PROVIDED, That, the court may, upon motion of the person whose
11 commitment is sought and upon good cause shown, extend the date for the
12 hearing. A copy of the petition and of the notice of hearing,
13 including the date fixed by the court, shall be served by the treatment
14 program on the person whose commitment is sought, his or her next of
15 kin, the original petitioner under subsection (1) of this section if
16 different from the petitioner for recommitment, one of his or her
17 parents or his or her legal guardian if he or she is a minor, and his
18 or her attorney and any other person the court believes advisable. At
19 the hearing the court shall proceed as provided in subsection (3) of
20 this section.

21 (7) The approved treatment program shall provide for adequate and
22 appropriate treatment of a person committed to its custody. A person
23 committed under this section may be transferred from one approved
24 public treatment program to another if transfer is medically advisable.

25 (8) A person committed to the custody of a program for treatment
26 shall be discharged at any time before the end of the period for which
27 he or she has been committed and he or she shall be discharged by order
28 of the court if either of the following conditions are met:

29 (a) In case of a chemically dependent person committed on the
30 grounds of likelihood of infliction of physical harm upon himself,
31 herself, or another, the likelihood no longer exists; or further
32 treatment will not be likely to bring about significant improvement in
33 the person's condition, or treatment is no longer adequate or
34 appropriate.

35 (b) In case of a chemically dependent person committed on the
36 grounds of the need of treatment and incapacity, that the incapacity no
37 longer exists.

38 (9) The court shall inform the person whose commitment or
39 recommitment is sought of his or her right to contest the application,

1 be represented by counsel at every stage of any proceedings relating to
2 his or her commitment and recommitment, and have counsel appointed by
3 the court or provided by the court, if he or she wants the assistance
4 of counsel and is unable to obtain counsel. If the court believes that
5 the person needs the assistance of counsel, the court shall require, by
6 appointment if necessary, counsel for him or her regardless of his or
7 her wishes. The person shall, if he or she is financially able, bear
8 the costs of such legal service; otherwise such legal service shall be
9 at public expense. The person whose commitment or recommitment is
10 sought shall be informed of his or her right to be examined by a
11 licensed physician of his or her choice. If the person is unable to
12 obtain a licensed physician and requests examination by a physician,
13 the court shall employ a licensed physician.

14 (10) A person committed under this chapter may at any time seek to
15 be discharged from commitment by writ of habeas corpus in a court of
16 competent jurisdiction.

17 (11) The venue for proceedings under this section is the county in
18 which person to be committed resides or is present.

19 (12) When in the opinion of the professional person in charge of
20 the program providing involuntary treatment under this chapter, the
21 committed patient can be appropriately served by less restrictive
22 treatment before expiration of the period of commitment, then the less
23 restrictive care may be required as a condition for early release for
24 a period which, when added to the initial treatment period, does not
25 exceed the period of commitment. If the program designated to provide
26 the less restrictive treatment is other than the program providing the
27 initial involuntary treatment, the program so designated must agree in
28 writing to assume such responsibility. A copy of the conditions for
29 early release shall be given to the patient, the designated chemical
30 dependency specialist of original commitment, and the court of original
31 commitment. The program designated to provide less restrictive care
32 may modify the conditions for continued release when the modifications
33 are in the best interests of the patient. If the program providing
34 less restrictive care and the designated chemical dependency specialist
35 determine that a conditionally released patient is failing to adhere to
36 the terms and conditions of his or her release, or that substantial
37 deterioration in the patient's functioning has occurred, then the
38 designated chemical dependency specialist shall notify the court of
39 original commitment and request a hearing to be held no less than two

1 and no more than seven days after the date of the request to determine
2 whether or not the person should be returned to more restrictive care.
3 The designated chemical dependency specialist shall file a petition
4 with the court stating the facts substantiating the need for the
5 hearing along with the treatment recommendations. The patient shall
6 have the same rights with respect to notice, hearing, and counsel as
7 for the original involuntary treatment proceedings. The issues to be
8 determined at the hearing are whether the conditionally released
9 patient did or did not adhere to the terms and conditions of his or her
10 release to less restrictive care or that substantial deterioration of
11 the patient's functioning has occurred and whether the conditions of
12 release should be modified or the person should be returned to a more
13 restrictive program. The hearing may be waived by the patient and his
14 or her counsel and his or her guardian or conservator, if any, but may
15 not be waived unless all such persons agree to the waiver. Upon
16 waiver, the person may be returned for involuntary treatment or
17 continued on conditional release on the same or modified conditions.

18 **Sec. 14.** RCW 71.34.030 and 1985 c 354 s 3 are each amended to read
19 as follows:

20 (1) Any minor thirteen years or older may request and receive
21 outpatient treatment without the consent of the minor's parent.
22 Parental authorization is required for outpatient treatment of a minor
23 under the age of thirteen.

24 (2) When in the judgment of the professional person in charge of an
25 evaluation and treatment facility there is reason to believe that a
26 minor is in need of inpatient treatment because of a mental disorder,
27 and the facility provides the type of evaluation and treatment needed
28 by the minor, and it is not feasible to treat the minor in any less
29 restrictive setting or the minor's home, the minor may be admitted to
30 an evaluation and treatment facility in accordance with the following
31 requirements:

32 (a) A minor under thirteen years of age may only be admitted on the
33 application of the minor's parent.

34 (b) A minor (~~((thirteen years or older))~~) may be voluntarily admitted
35 by application of the parent without the minor's consent. (~~((Such
36 application must be accompanied by the written consent, knowingly and
37 voluntarily given, of the minor.))~~)

1 (c) A minor thirteen years or older may, with the concurrence of
2 the professional person in charge of an evaluation and treatment
3 facility, admit himself or herself without parental consent to the
4 evaluation and treatment facility, provided that notice is given by the
5 facility to the minor's parent in accordance with the following
6 requirements:

7 (i) Notice of the minor's admission shall be in the form most
8 likely to reach the parent within twenty-four hours of the minor's
9 voluntary admission and shall advise the parent that the minor has been
10 admitted to inpatient treatment; the location and telephone number of
11 the facility providing such treatment; and the name of a professional
12 person on the staff of the facility providing treatment who is
13 designated to discuss the minor's need for inpatient treatment with the
14 parent.

15 (ii) The minor shall be released to the parent at the parent's
16 request for release unless the facility files a petition with the
17 superior court of the county in which treatment is being provided
18 setting forth the basis for the facility's belief that the minor is in
19 need of inpatient treatment and that release would constitute a threat
20 to the minor's health or safety.

21 (iii) The petition shall be signed by the professional person in
22 charge of the facility or that person's designee.

23 (iv) The parent may apply to the court for separate counsel to
24 represent the parent if the parent cannot afford counsel.

25 (v) There shall be a hearing on the petition, which shall be held
26 within three judicial days from the filing of the petition.

27 (vi) The hearing shall be conducted by a judge, court commissioner,
28 or licensed attorney designated by the superior court as a hearing
29 officer for such hearing. The hearing may be held at the treatment
30 facility.

31 (vii) At such hearing, the facility must demonstrate by a
32 preponderance of the evidence presented at the hearing that the minor
33 is in need of inpatient treatment and that release would constitute a
34 threat to the minor's health or safety. The hearing shall not be
35 conducted using the rules of evidence, and the admission or exclusion
36 of evidence sought to be presented shall be within the exercise of
37 sound discretion by the judicial officer conducting the hearing.

1 (d) Written renewal of voluntary consent must be obtained from the
2 applicant (~~and the minor thirteen years or older~~) no less than once
3 every twelve months.

4 (e) The minor's need for continued inpatient treatments shall be
5 reviewed and documented no less than every one hundred eighty days.

6 (3) A notice of intent to leave shall result in the following:

7 (a) Any minor under the age of thirteen and any minor age thirteen
8 or older admitted by the parent under subsection (2)(b) of this section
9 must be discharged immediately upon written request of the parent.

10 (b) Any minor thirteen years or older voluntarily admitted by
11 himself or herself under subsection (2)(c) of this section may give
12 notice of intent to leave at any time. The notice need not follow any
13 specific form so long as it is written and the intent of the minor can
14 be discerned.

15 (c) The staff member receiving the notice shall date it
16 immediately, record its existence in the minor's clinical record, and
17 send copies of it to the minor's attorney, if any, the county-
18 designated mental health professional, and the parent.

19 (d) The professional person in charge of the evaluation and
20 treatment facility shall discharge the minor, thirteen years or older
21 admitted by himself or herself under subsection (2)(c) of this section,
22 from the facility within twenty-four hours after receipt of the minor's
23 notice of intent to leave, unless the county-designated mental health
24 professional files a petition for initial detention within the time
25 prescribed by this chapter.

26 **Sec. 15.** RCW 71.34.050 and 1985 c 354 s 5 are each amended to read
27 as follows:

28 (1) When a county-designated mental health professional receives
29 information that a minor, thirteen years or older, as a result of a
30 mental disorder presents a likelihood of serious harm or is gravely
31 disabled, has investigated the specific facts alleged and of the
32 credibility of the person or persons providing the information, and has
33 determined that voluntary admission for inpatient treatment is not
34 possible, the county-designated mental health professional may take the
35 minor, or cause the minor to be taken, into custody and transported to
36 an evaluation and treatment facility providing inpatient treatment.

37 If the minor is not taken into custody for evaluation and
38 treatment, the parent, guardian, or custodian who has custody of the

1 minor may seek review of that decision made by the county designated
2 mental health professional in court. The parent, guardian, or
3 custodian shall file notice with the court and provide a copy of the
4 county designated mental health professional's report or notes.

5 (2) Within twelve hours of the minor's arrival at the evaluation
6 and treatment facility, the county-designated mental health
7 professional shall serve on the minor a copy of the petition for
8 initial detention, notice of initial detention, and statement of
9 rights. The county-designated mental health professional shall file
10 with the court on the next judicial day following the initial detention
11 the original petition for initial detention, notice of initial
12 detention, and statement of rights along with an affidavit of service.
13 The county-designated mental health professional shall commence service
14 of the petition for initial detention and notice of the initial
15 detention on the minor's parent and the minor's attorney as soon as
16 possible following the initial detention.

17 (3) At the time of initial detention, the county-designated mental
18 health professional shall advise the minor both orally and in writing
19 that if admitted to the evaluation and treatment facility for inpatient
20 treatment, a commitment hearing shall be held within seventy-two hours
21 of the minor's provisional acceptance to determine whether probable
22 cause exists to commit the minor for further mental health treatment.

23 The minor shall be advised that he or she has a right to
24 communicate immediately with an attorney and that he or she has a right
25 to have an attorney appointed to represent him or her before and at the
26 hearing if the minor is indigent.

27 (4) Whenever the county designated mental health professional
28 petitions for detention of a minor under this chapter, an evaluation
29 and treatment facility providing seventy-two hour evaluation and
30 treatment must immediately accept on a provisional basis the petition
31 and the person. Within twenty-four hours of the minor's arrival, the
32 facility must evaluate the minor's condition and either admit or
33 release the minor in accordance with this chapter.

34 (5) If a minor is not approved for admission by the inpatient
35 evaluation and treatment facility, the facility shall make such
36 recommendations and referrals for further care and treatment of the
37 minor as necessary.

1 **Sec. 16.** RCW 71.34.070 and 1985 c 354 s 7 are each amended to read
2 as follows:

3 (1) The professional person in charge of an evaluation and
4 treatment facility where a minor has been admitted involuntarily for
5 the initial seventy-two hour treatment period under this chapter may
6 petition to have a minor committed to an evaluation and treatment
7 facility for fourteen-day diagnosis, evaluation, and treatment.

8 If the professional person in charge of the treatment and
9 evaluation facility does not petition to have the minor committed, the
10 parent, guardian, or custodian who has custody of the minor may seek
11 review of that decision in court. The parent, guardian, or custodian
12 shall file notice with the court and provide a copy of the treatment
13 and evaluation facility's report.

14 (2) A petition for commitment of a minor under this section shall
15 be filed with the superior court in the county where the minor is
16 residing or being detained.

17 (a) A petition for a fourteen-day commitment shall be signed either
18 by two physicians or by one physician and a mental health professional
19 who have examined the minor and shall contain the following:

20 (i) The name and address of the petitioner;

21 (ii) The name of the minor alleged to meet the criteria for
22 fourteen-day commitment;

23 (iii) The name, telephone number, and address if known of every
24 person believed by the petitioner to be legally responsible for the
25 minor;

26 (iv) A statement that the petitioner has examined the minor and
27 finds that the minor's condition meets required criteria for fourteen-
28 day commitment and the supporting facts therefor;

29 (v) A statement that the minor has been advised of the need for
30 voluntary treatment but has been unwilling or unable to consent to
31 necessary treatment;

32 (vi) A statement recommending the appropriate facility or
33 facilities to provide the necessary treatment; and

34 (vii) A statement concerning whether a less restrictive alternative
35 to inpatient treatment is in the best interests of the minor.

36 (b) A copy of the petition shall be personally delivered to the
37 minor by the petitioner or petitioner's designee. A copy of the
38 petition shall be sent to the minor's attorney and the minor's parent.

1 **Sec. 17.** RCW 13.40.320 and 1994 sp.s. c 7 s 532 are each amended
2 to read as follows:

3 (1) The department of social and health services shall establish
4 and operate a medium security juvenile offender basic training camp
5 program. The department shall site a juvenile offender basic training
6 camp facility in the most cost-effective facility possible and shall
7 review the possibility of using an existing abandoned and/or available
8 state, federally, or military-owned site or facility.

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

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

19 (4) The juvenile offender basic training camp shall be a structured
20 and regimented model lasting one hundred twenty days emphasizing the
21 building up of an offender's self-esteem, confidence, and discipline.
22 The juvenile offender basic training camp program shall provide
23 participants with basic education, prevocational training, work-based
24 learning, live work, work ethic skills, conflict resolution counseling,
25 substance abuse intervention, anger management counseling, and
26 structured intensive physical training. The juvenile offender basic
27 training camp program shall have a curriculum training and work
28 schedule that incorporates a balanced assignment of these or other
29 rehabilitation and training components for no less than sixteen hours
30 per day, six days a week.

31 The department shall adopt rules for the safe and effective
32 operation of the juvenile offender basic training camp program,
33 standards for an offender's successful program completion, and rules
34 for the continued after-care supervision of offenders who have
35 successfully completed the program.

36 (5) Offenders eligible for the juvenile offender basic training
37 camp option shall be those with a disposition of at least (~~(fifty-two)~~)
38 thirty weeks but not more than (~~(seventy-eight)~~) forty weeks. Violent
39 and sex offenders and offenders previously placed in the juvenile

1 offender basic training camp program shall not be eligible for the
2 juvenile offender basic training camp program.

3 (6) If the court determines that the offender is eligible for the
4 juvenile offender basic training camp option, the court may recommend
5 that the department place the offender in the program. The department
6 shall evaluate the offender and may place the offender in the program.
7 No juvenile who suffers from any mental or physical problems that could
8 endanger his or her health or drastically affect his or her performance
9 in the program shall be admitted to or retained in the juvenile
10 offender basic training camp program.

11 (7) All juvenile offenders eligible for the juvenile offender basic
12 training camp sentencing option shall spend the first one hundred
13 twenty days of their disposition in a juvenile offender basic training
14 camp. If the juvenile offender's activities while in the juvenile
15 offender basic training camp are so disruptive to the juvenile offender
16 basic training camp program, as determined by the secretary according
17 to rules adopted by the department, as to result in the removal of the
18 juvenile offender from the juvenile offender basic training camp
19 program, or if the offender cannot complete the juvenile offender basic
20 training camp program due to medical problems, the secretary shall
21 require that the offender be committed to a juvenile institution to
22 serve the entire remainder of his or her disposition, less the amount
23 of time already served in the juvenile offender basic training camp
24 program.

25 (8) All offenders who successfully graduate from the one hundred
26 twenty day juvenile offender basic training camp program shall spend
27 the remainder of (~~their~~) his or her disposition on parole in a
28 (~~division of~~) juvenile rehabilitation administration intensive
29 aftercare program in the local community. The program shall provide
30 for the needs of the offender based on his or her progress in the
31 aftercare program as indicated by ongoing assessment of those needs and
32 progress. The intensive aftercare program shall monitor postprogram
33 juvenile offenders and assist them to successfully reintegrate into the
34 community. In addition, the program shall develop a process for
35 closely monitoring and assessing public safety risks. The intensive
36 aftercare program shall be designed and funded by the department of
37 social and health services.

38 (9) The department shall also develop and maintain a data base to
39 measure recidivism rates specific to this incarceration program. The

1 data base shall maintain data on all juvenile offenders who complete
2 the juvenile offender basic training camp program for a period of two
3 years after they have completed the program. The data base shall also
4 maintain data on the criminal activity, educational progress, and
5 employment activities of all juvenile offenders who participated in the
6 program. The department shall produce an outcome evaluation report on
7 the progress of the juvenile offender basic training camp program to
8 the appropriate committees of the legislature no later than December
9 12, 1996.

10 **Sec. 18.** RCW 13.40.185 and 1994 sp.s. c 7 s 524 are each amended
11 to read as follows:

12 (1) Any term of confinement imposed for an offense which exceeds
13 thirty days except under option B of schedule D-1 or option D of
14 schedule D-2 shall be served under the supervision of the department.
15 If the period of confinement imposed for more than one offense exceeds
16 thirty days but the term imposed for each offense is less than thirty
17 days, the confinement may, in the discretion of the court, be served in
18 a juvenile facility operated by or pursuant to a contract with the
19 state or a county.

20 (2) Whenever a juvenile is confined in a detention facility or is
21 committed to the department, the court may not directly order a
22 juvenile into a particular county or state facility. The juvenile
23 court administrator and the secretary, assistant secretary, or the
24 secretary's designee, as appropriate, has the sole discretion to
25 determine in which facility a juvenile should be confined or committed.
26 The counties may operate a variety of detention facilities as
27 determined by the county legislative authority subject to available
28 funds.

29 **Sec. 19.** RCW 13.40.160 and 1994 sp.s. c 7 s 523 are each amended
30 to read as follows:

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

36 If the court concludes, and enters reasons for its conclusion, that
37 disposition within the standard range would effectuate a manifest

1 injustice the court shall impose a disposition outside the standard
2 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
3 court's finding of manifest injustice shall be supported by clear and
4 convincing evidence.

5 A disposition outside the standard range shall be determinate and
6 shall be comprised of confinement or community supervision, or a
7 combination thereof. When a judge finds a manifest injustice and
8 imposes a sentence of confinement exceeding thirty days, the court
9 shall sentence the juvenile to a maximum term, and the provisions of
10 RCW 13.40.030(2) shall be used to determine the range. A disposition
11 outside the standard range is appealable under RCW 13.40.230 by the
12 state or the respondent. A disposition within the standard range is
13 not appealable under RCW 13.40.230.

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

30 Except for disposition of community supervision or a disposition
31 imposed pursuant to subsection (5) of this section, a disposition may
32 be appealed as provided in RCW 13.40.230 by the state or the
33 respondent. A disposition of community supervision or a disposition
34 imposed pursuant to subsection (5) of this section may not be appealed
35 under RCW 13.40.230.

36 (3) Where a respondent is found to have committed an offense for
37 which the respondent declined to enter into a diversion agreement, the
38 court shall impose a term of community supervision limited to the

1 conditions allowed in a diversion agreement as provided in RCW
2 13.40.080(2).

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

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

10 (b) The court shall impose a disposition under (a) of this
11 subsection, which shall be suspended, and shall impose a determinate
12 disposition of community supervision and/or up to thirty days
13 confinement, as indicated in option B of schedule D-2, RCW 13.40.0357
14 in which case, if confinement has been imposed, the court shall state
15 either aggravating or mitigating factors as set forth in RCW 13.40.150.
16 If the offender violates any condition of the disposition, the court
17 may revoke the suspension and order execution of the sentence. The
18 court shall give credit for any confinement time previously served if
19 that confinement was for the offense for which the suspension is being
20 revoked.

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

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

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

38 The report of the examination shall include at a minimum the
39 following: The respondent's version of the facts and the official

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

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

10 (a)(i) Frequency and type of contact between the offender and
11 therapist;

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

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

17 (iv) Anticipated length of treatment; and

18 (v) Recommended crime-related prohibitions.

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

25 After receipt of reports of the examination, the court shall then
26 consider whether the offender and the community will benefit from use
27 of this special sex offender disposition alternative and consider the
28 victim's opinion whether the offender should receive a treatment
29 disposition under this section. If the court determines that this
30 special sex offender disposition alternative is appropriate, then the
31 court shall impose a determinate disposition within the standard range
32 for the offense, or if the court concludes, and enters reasons for its
33 conclusion, that such disposition would effectuate a manifest
34 injustice, the court shall impose a disposition pursuant to option C of
35 schedule D-1, option C of schedule D-2, or option B of schedule D-3 as
36 appropriate, and the court may suspend the execution of the disposition
37 and place the offender on community supervision for ~~((up to))~~ no less
38 than two years. As a condition of the suspended disposition, the court
39 may impose the conditions of community supervision and other

1 conditions, including up to thirty days of confinement and requirements
2 that the offender do any one or more of the following:

3 (b)(i) Devote time to a specific education, employment, or
4 occupation;

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

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

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

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

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

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

26 The sex offender treatment provider shall submit quarterly reports
27 on the respondent's progress in treatment to the court and the parties.
28 The reports shall reference the treatment plan and include at a minimum
29 the following: Dates of attendance, respondent's compliance with
30 requirements, treatment activities, the respondent's relative progress
31 in treatment, and any other material specified by the court at the time
32 of the disposition.

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

35 Except as provided in this subsection (5), after July 1, 1991,
36 examinations and treatment ordered pursuant to this subsection shall
37 only be conducted by sex offender treatment providers certified by the
38 department of health pursuant to chapter 18.155 RCW. A sex offender
39 therapist who examines or treats a juvenile sex offender pursuant to

1 this subsection does not have to be certified by the department of
2 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
3 offender has already moved to another state or plans to move to another
4 state for reasons other than circumventing the certification
5 requirements; (B) no certified providers are available for treatment
6 within a reasonable geographical distance of the offender's home; and
7 (C) the evaluation and treatment plan comply with this subsection (5)
8 and the rules adopted by the department of health.

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

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

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

28 (7) Whenever a juvenile offender is entitled to credit for time
29 spent in detention prior to a dispositional order, the dispositional
30 order shall specifically state the number of days of credit for time
31 served.

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

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

38 (10) In all disposition orders that include commitment to the
39 department, the court shall make a finding of reasonable rehabilitative

1 goals to be achieved by the juvenile during the commitment term. These
2 goals may include, by way of example and not limitation, completion of
3 substance abuse treatment, completion of anger management courses, and
4 achievement of academic, educational, or vocational goals, such as
5 grade-level reading or general educational development test completion.

6 **Sec. 20.** RCW 13.40.210 and 1994 sp.s. c 7 s 527 are each amended
7 to read as follows:

8 ~~(1) ((The secretary shall, except in the case of a juvenile~~
9 ~~committed by a court to a term of confinement in a state institution~~
10 ~~outside the appropriate standard range for the offense(s) for which the~~
11 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~
12 ~~set a release or discharge date for each juvenile committed to its~~
13 ~~custody. The release or discharge date shall be within the prescribed~~
14 ~~range to which a juvenile has been committed except as provided in RCW~~
15 ~~13.40.320 concerning offenders the department determines are eligible~~
16 ~~for the juvenile offender basic training camp program. Such dates~~
17 ~~shall be determined prior to the expiration of sixty percent of a~~
18 ~~juvenile's minimum term of confinement included within the prescribed~~
19 ~~range to which the juvenile has been committed.)) (a) When a juvenile~~
20 is committed to a term of confinement in a state institution, the
21 secretary shall review the sentencing court's finding of the
22 rehabilitative goals to be achieved by the juvenile during the term of
23 confinement. The department shall provide rehabilitative resources,
24 including but not limited to education, vocational training, substance
25 abuse treatment, and counseling, to permit the juvenile to achieve
26 these rehabilitative goals.

27 (b) After expiration of no more than sixty percent of the
28 juvenile's commitment range, the department shall provide a report
29 containing an evaluation of the juvenile's behavior and performance
30 during commitment. This report shall specifically describe the
31 juvenile's progress toward achieving the designated rehabilitative
32 goals.

33 (c) The department shall provide this report to the committing
34 court. The court, after considering the department's report, shall
35 determine a release or discharge date for the juvenile, which date
36 shall fall on or before expiration of the original term of commitment.
37 If a substantial change in the juvenile's behavior occurs after the
38 setting of the release or discharge date, the department may submit an

1 updated report to the committing court. The committing court may
2 change the release or discharge date based upon the updated report.
3 Nothing in this subsection requires the court to hold a hearing in
4 setting the release or discharge date.

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

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

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

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

38 (3) Following the juvenile's release under subsection (1) of this
39 section, the secretary may require the juvenile to comply with a

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

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

1 compulsion, or a sex offense that is also a serious violent offense as
2 defined by RCW 9.94A.030.

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

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

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

16 **Sec. 21.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
17 as follows:

18 ~~((1))~~ There is established a juvenile disposition ~~((standards~~
19 ~~commission to propose disposition standards to the legislature in~~
20 ~~accordance with RCW 13.40.030 and perform the other responsibilities~~
21 ~~set forth in this chapter.~~

22 ~~(2) The commission)~~ guidelines committee. The committee shall be
23 composed of ~~((the secretary or the secretary's designee and the~~
24 ~~following nine members appointed by the governor, subject to~~
25 ~~confirmation by the senate:—(a))~~: (1) A superior court judge;
26 ~~((b))~~ (2) a prosecuting attorney or deputy prosecuting attorney;
27 ~~((c))~~ (3) a representative from law enforcement ~~((officer))~~; ~~((d) an~~
28 ~~administrator of))~~ (4) a juvenile court ~~((services))~~ administrator;
29 ~~((e))~~ (5) a public defender actively practicing in juvenile court;
30 ~~((f))~~ (6) a ~~((county legislative official or))~~ representative from
31 county ~~((executive))~~ government; and ~~((g) three other persons who have~~
32 ~~demonstrated significant interest in the adjudication and disposition~~
33 ~~of juvenile offenders. In making the appointments, the governor shall~~
34 ~~seek the recommendations of the association of superior court judges in~~
35 ~~respect to the member who is a superior court judge; of Washington~~
36 ~~prosecutors in respect to the prosecuting attorney or deputy~~
37 ~~prosecuting attorney member; of the Washington association of sheriffs~~
38 ~~and police chiefs in respect to the member who is a law enforcement~~

1 officer; of juvenile court administrators in respect to the member who
2 is a juvenile court administrator; and of the state bar association in
3 respect to the public defender member; and of the Washington
4 association of counties in respect to the member who is either a county
5 legislative official or county executive.

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

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

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

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

20 (7) a representative from the juvenile rehabilitation administration.
21 The members of the committee shall be selected from the above groups in
22 the same manner as members of the sentencing guidelines commission as
23 set forth in RCW 9.94A.060. The sentencing guidelines commission shall
24 provide staff support to the committee.

25 **Sec. 22.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
26 as follows:

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

1 with RCW 13.40.030. The evaluations shall be submitted to the
2 legislature on December 1 of each even numbered year thereafter.

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

11 The juvenile rehabilitation administration shall provide all
12 available data to committee staff concerning juvenile dispositions
13 within the administration and report on the effect of current statutes
14 on the performance of the administration's responsibilities.

15 **Sec. 23.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
16 as follows:

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

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

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

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

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

27 ~~((c) Where the maximum term in the range is more than one year, the~~
28 ~~minimum term in the range may be no less than eighty percent of the~~
29 ~~maximum term in the range)) review the structure of the juvenile
30 dispositions grid and make recommendations to the legislature
31 concerning revisions of the grid.~~

32 **Sec. 24.** RCW 9A.04.050 and 1975 1st ex.s. c 260 s 9A.04.050 are
33 each amended to read as follows:

34 Children under the age of eight years are incapable of committing
35 crime. Children of eight and under ~~((twelve))~~ ten years of age are
36 presumed to be incapable of committing crime, but this presumption may
37 be removed by proof that they have sufficient capacity to understand
38 the act or neglect, and to know that it was wrong. Whenever in legal

1 proceedings it becomes necessary to determine the age of a child, he or
2 she may be produced for inspection, to enable the court or jury to
3 determine the age thereby; and the court may also direct ((his)) the
4 child's examination by one or more physicians, whose opinion shall be
5 competent evidence upon the question of ((his)) the child's age.

6 **Sec. 25.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
7 as follows:

8 (1) All actions under this chapter shall be commenced and tried in
9 the county where any element of the offense was committed except as
10 otherwise specially provided by statute. In cases in which diversion
11 is provided by statute, venue is in the county in which the juvenile
12 resides or in the county in which any element of the offense was
13 committed.

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

22 (3) The case and copies of all legal and social documents
23 pertaining thereto may in the discretion of the court be transferred to
24 the county in which the juvenile resides for supervision and
25 enforcement of the disposition order. The court of the receiving
26 county has jurisdiction to modify and enforce the disposition order.

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

31 **Sec. 26.** RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,
32 and 1994 c 261 s 18 are each reenacted and amended to read as follows:

33 For the purposes of this chapter:

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

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

1 (b) Manslaughter in the first degree; or

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

9 (2) "Community service" means compulsory service, without
10 compensation, performed for the benefit of the community by the
11 offender as punishment for committing an offense. Community service
12 may be performed through public or private organizations or through
13 work crews;

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

27 (a) Community-based sanctions;

28 (b) Community-based rehabilitation;

29 (c) Monitoring and reporting requirements;

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

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

33 (b) Community service not to exceed one hundred fifty hours of
34 service;

35 (5) "Community-based rehabilitation" means one or more of the
36 following: Attendance of information classes; counseling, outpatient
37 substance abuse treatment programs, outpatient mental health programs,
38 anger management classes, education or outpatient treatment programs to
39 prevent animal cruelty, or other services; or attendance at school or

1 other educational programs appropriate for the juvenile as determined
2 by the school district. Placement in community-based rehabilitation
3 programs is subject to available funds;

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

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

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

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

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

30 (b) The criminal complaint was diverted by a prosecutor pursuant to
31 the provisions of this chapter on agreement of the respondent and after
32 an advisement to the respondent that the criminal complaint would be
33 considered as part of the respondent's criminal history. A
34 successfully completed deferred adjudication shall not be considered
35 part of the respondent's criminal history;

36 (10) "Department" means the department of social and health
37 services;

38 (11) "Detention facility" means a county facility, paid for by the
39 county, for the physical confinement of a juvenile alleged to have

1 committed an offense or an adjudicated offender subject to a
2 disposition or modification order. "Detention facility" includes
3 county group homes, inpatient substance abuse programs, juvenile basic
4 training camps, and electronic monitoring;

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

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

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

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

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

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

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

- 1 (a) Four misdemeanors;
- 2 (b) Two misdemeanors and one gross misdemeanor;
- 3 (c) One misdemeanor and two gross misdemeanors; and
- 4 (d) Three gross misdemeanors.

5 For purposes of this definition, current violations shall be
6 counted as misdemeanors;

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

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

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

23 (22) "Secretary" means the secretary of the department of social
24 and health services. "Assistant secretary" means the assistant
25 secretary for juvenile rehabilitation for the department;

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

30 (24) "Sex offense" means an offense defined as a sex offense in RCW
31 9.94A.030;

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

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

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

4 (28) "Violent offense" means a violent offense as defined in RCW
5 9.94A.030.

6 **Sec. 27.** RCW 13.40.0357 and 1994 sp.s. c 7 s 522 are each amended
7 to read as follows:

8 SCHEDULE A

9 DESCRIPTION AND OFFENSE CATEGORY

10			JUVENILE
11	JUVENILE		DISPOSITION
12	DISPOSITION		CATEGORY FOR ATTEMPT,
13	OFFENSE		BAILJUMP, CONSPIRACY,
14	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
15

16 **Arson and Malicious Mischief**

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

29 **Assault and Other Crimes**
30 **Involving Physical Harm**

31	A	Assault 1 (9A.36.011)	B+
32	B+	Assault 2 (9A.36.021)	C+
33	C+	Assault 3 (9A.36.031)	D+
34	D+	Assault 4 (9A.36.041)	E

1	D+	Reckless Endangerment	
2		(9A.36.050)	E
3	C+	Promoting Suicide Attempt	
4		(9A.36.060)	D+
5	D+	Coercion (9A.36.070)	E
6	C+	Custodial Assault (9A.36.100)	D+
7		Burglary and Trespass	
8	B+	Burglary 1 (9A.52.020)	C+
9	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
10	B	Burglary 2 (9A.52.030)	C
11	D	Burglary Tools (Possession of)	
12		(9A.52.060)	E
13	D	Criminal Trespass 1 (9A.52.070)	E
14	E	Criminal Trespass 2 (9A.52.080)	E
15	D	Vehicle Prowling (9A.52.100)	E
16		Drugs	
17	E	Possession/Consumption of Alcohol	
18		(66.44.270)	E
19	C	Illegally Obtaining Legend Drug	
20		(69.41.020)	D
21	C+	Sale, Delivery, Possession of Legend	
22		Drug with Intent to Sell	
23		(69.41.030)	D+
24	E	Possession of Legend Drug	
25		(69.41.030)	E
26	B+	Violation of Uniform Controlled	
27		Substances Act - Narcotic Sale	
28		(69.50.401(a)(1)(i))	B+
29	C	Violation of Uniform Controlled	
30		Substances Act - Nonnarcotic Sale	
31		(69.50.401(a)(1)(ii))	C
32	E	Possession of Marihuana <40 grams	
33		(69.50.401(e))	E
34	C	Fraudulently Obtaining Controlled	
35		Substance (69.50.403)	C
36	C+	Sale of Controlled Substance	
37		for Profit (69.50.410)	C+

1	E	Unlawful Inhalation (9.47A.020)	E
2	B	Violation of Uniform Controlled	
3		Substances Act - Narcotic	
4		Counterfeit Substances	
5		(69.50.401(b)(1)(i))	B
6	C	Violation of Uniform Controlled	
7		Substances Act - Nonnarcotic	
8		Counterfeit Substances	
9		(69.50.401(b)(1) (ii), (iii), (iv))	C
10	C	Violation of Uniform Controlled	
11		Substances Act - Possession of a	
12		Controlled Substance	
13		(69.50.401(d))	C
14	C	Violation of Uniform Controlled	
15		Substances Act - Possession of a	
16		Controlled Substance	
17		(69.50.401(c))	C
18		Firearms and Weapons	
19	E	Carrying Loaded Pistol Without	
20		Permit (9.41.050)	E
21	C	Possession of Firearms by	
22		Minor (<18) (9.41.040(1)(e))	C
23	D+	Possession of Dangerous Weapon	
24		(9.41.250)	E
25	D	Intimidating Another Person by use	
26		of Weapon (9.41.270)	E
27		Homicide	
28	A+	Murder 1 (9A.32.030)	A
29	A+	Murder 2 (9A.32.050)	B+
30	B+	Manslaughter 1 (9A.32.060)	C+
31	C+	Manslaughter 2 (9A.32.070)	D+
32	B+	Vehicular Homicide (46.61.520)	C+
33		Kidnapping	
34	A	Kidnap 1 (9A.40.020)	B+
35	B+	Kidnap 2 (9A.40.030)	C+

1	C+	Unlawful Imprisonment	
2		(9A.40.040)	D+
3		Obstructing Governmental Operation	
4	E	Obstructing a ((Public Servant))	
5		<u>Law Enforcement Officer</u> (9A.76.020)	E
6	E	Resisting Arrest (9A.76.040)	E
7	B	Introducing Contraband 1	
8		(9A.76.140)	C
9	C	Introducing Contraband 2	
10		(9A.76.150)	D
11	E	Introducing Contraband 3	
12		(9A.76.160)	E
13	B+	Intimidating a Public Servant	
14		(9A.76.180)	C+
15	B+	Intimidating a Witness	
16		(9A.72.110)	C+
17		Public Disturbance	
18	C+	Riot with Weapon (9A.84.010)	D+
19	D+	Riot Without Weapon	
20		(9A.84.010)	E
21	E	Failure to Disperse (9A.84.020)	E
22	E	Disorderly Conduct (9A.84.030)	E
23		Sex Crimes	
24	A	Rape 1 (9A.44.040)	B+
25	A-	Rape 2 (9A.44.050)	B+
26	C+	Rape 3 (9A.44.060)	D+
27	A-	Rape of a Child 1 (9A.44.073)	B+
28	B	Rape of a Child 2 (9A.44.076)	C+
29	B	Incest 1 (9A.64.020(1))	C
30	C	Incest 2 (9A.64.020(2))	D
31	D+	Indecent Exposure	
32		(Victim <14) (9A.88.010)	E
33	E	Indecent Exposure	
34		(Victim 14 or over) (9A.88.010)	E
35	B+	Promoting Prostitution 1	
36		(9A.88.070)	C+

1	C+	Promoting Prostitution 2	
2		(9A.88.080)	D+
3	E	O & A (Prostitution) (9A.88.030)	E
4	B+	Indecent Liberties (9A.44.100)	C+
5	B+	Child Molestation 1 (9A.44.083)	C+
6	C+	Child Molestation 2 (9A.44.086)	C
7		Theft, Robbery, Extortion, and Forgery	
8	B	Theft 1 (9A.56.030)	C
9	C	Theft 2 (9A.56.040)	D
10	D	Theft 3 (9A.56.050)	E
11	B	Theft of Livestock (9A.56.080)	C
12	C	Forgery (9A.60.020)	D
13	A	Robbery 1 (9A.56.200)	B+
14	B+	Robbery 2 (9A.56.210)	C+
15	B+	Extortion 1 (9A.56.120)	C+
16	C+	Extortion 2 (9A.56.130)	D+
17	B	Possession of Stolen Property 1	
18		(9A.56.150)	C
19	C	Possession of Stolen Property 2	
20		(9A.56.160)	D
21	D	Possession of Stolen Property 3	
22		(9A.56.170)	E
23	C	Taking Motor Vehicle Without	
24		Owner's Permission (9A.56.070)	D
25		Motor Vehicle Related Crimes	
26	E	Driving Without a License	
27		(46.20.021)	E
28	C	Hit and Run - Injury	
29		(46.52.020(4))	D
30	D	Hit and Run-Attended	
31		(46.52.020(5))	E
32	E	Hit and Run-Unattended	
33		(46.52.010)	E
34	C	Vehicular Assault (46.61.522)	D
35	C	Attempting to Elude Pursuing	
36		Police Vehicle (46.61.024)	D
37	E	Reckless Driving (46.61.500)	E

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

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

30 1st escape or attempted escape during 12-month period - 4 weeks
31 confinement

32 2nd escape or attempted escape during 12-month period - 8 weeks
33 confinement

34 3rd and subsequent escape or attempted escape during 12-month
35 period - 12 weeks confinement

1 if the court finds that a respondent has violated terms of an order,
2 it may impose a penalty of up to 30 days of confinement.

3 SCHEDULE B
4 PRIOR OFFENSE INCREASE FACTOR

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

7 TIME SPAN

8 OFFENSE	0-12	13-24	25 Months
9 CATEGORY	Months	Months	or More
10			
11 A+	.9	.9	.9
12 A	.9	.8	.6
13 A-	.9	.8	.5
14 B+	.9	.7	.4
15 B	.9	.6	.3
16 C+	.6	.3	.2
17 C	.5	.2	.2
18 D+	.3	.2	.1
19 D	.2	.1	.1
20 E	.1	.1	.1

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

25 SCHEDULE C
26 CURRENT OFFENSE POINTS

27 For use with all CURRENT OFFENSES occurring on or after July 1,
28 1989.

1

AGE

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

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.....

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

15 JUVENILE SENTENCING STANDARDS
 16 SCHEDULE D-1

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

20 MINOR/FIRST OFFENDER

21 OPTION A
 22 STANDARD RANGE

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

1 ~~70-79~~ ~~6-9 months~~ ~~and/or~~ ~~40-56~~ ~~and/or~~ ~~0-\$50~~
2 ~~80-89~~ ~~9-12 months~~ ~~and/or~~ ~~48-64~~ ~~and/or~~ ~~10-\$100~~
3 ~~90-109~~ ~~9-12 months~~ ~~and/or~~ ~~56-72~~ ~~and/or~~ ~~10-\$100))~~
4 1-109 0-12 months and/or 0-150 and/or 0-\$100

5 OR

6 OPTION B
7 STATUTORY OPTION

8 0-90 Days Inpatient Substance Abuse Treatment
9 0-12 Months Community Supervision
10 ~~((0-150 Hours Community Service~~
11 ~~0-100 Fine~~

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

14 OR

15 OPTION C
16 MANIFEST INJUSTICE

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

22 JUVENILE SENTENCING STANDARDS
23 SCHEDULE D-2

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

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Community

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

29 Middle offenders with less than 110 points do not have to be committed.
30 They may be sent to inpatient substance abuse treatment under option D.
31 Middle offenders with ((more than)) 110 points or more do not have to
32 be committed. They may be assigned community supervision under option
33 B.
34 All A+ offenses 180-224 weeks

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OR

OPTION B
STATUTORY OPTION

- 0-12 Months Community Supervision
- 0-150 Hours Community Service
- 0-100 Fine

The court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150.

OR

OPTION C
MANIFEST INJUSTICE

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

OPTION D
OFFENDERS UNDER 110 POINTS

- 0-90 Days Inpatient Substance Abuse Treatment
- 0-12 Months Community Supervision

JUVENILE SENTENCING STANDARDS
SCHEDULE D-3

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

1 SERIOUS OFFENDER

2 OPTION A

3 STANDARD RANGE

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

14 OR

16 OPTION B

17 MANIFEST INJUSTICE

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

--- END ---