
SENATE BILL 6752

State of Washington

54th Legislature

1996 Regular Session

By Senators Roach and Schow

Read first time 01/31/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes committed by juveniles; amending RCW
2 13.40.040, 13.40.050, 13.40.130, 13.40.320, 13.40.185, 13.40.160,
3 13.40.210, 13.40.025, 13.40.027, 13.40.030, 9A.04.050, 13.40.060, and
4 13.40.0357; reenacting and amending RCW 13.04.030 and 13.40.020;
5 creating a new section; and prescribing penalties.

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

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

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

17 **Sec. 2.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
18 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

35 (iv) The juvenile is sixteen or seventeen years old and the alleged
36 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
37 committed on or after June 13, 1994; or (B) a violent offense as
38 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
39 juvenile has a criminal history consisting of: (I) One or more prior

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

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

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

16 (g) Relating to termination of a diversion agreement under RCW
17 13.40.080, including a proceeding in which the divertee has attained
18 eighteen years of age;

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

25 (i) Relating to petitions to compel disclosure of information filed
26 by the department of social and health services pursuant to RCW
27 74.13.042.

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

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

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

1 **Sec. 3.** RCW 13.40.040 and 1995 c 395 s 4 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 a probation bond set by the court. The juvenile's parent or
38 guardian may sign for the probation bond. A court authorizing such a
39 release shall issue an order containing a statement of conditions

1 imposed upon the juvenile and shall set the date of his or her next
2 court appearance. The court shall advise the juvenile of any
3 conditions specified in the order and may at any time amend such an
4 order in order to impose additional or different conditions of release
5 upon the juvenile or to return the juvenile to custody for failing to
6 conform to the conditions imposed. In addition to requiring the
7 juvenile to appear at the next court date, the court may condition the
8 probation bond on the juvenile's compliance with conditions of release.
9 The juvenile's parent or guardian may notify the court that the
10 juvenile has failed to conform to the conditions of release or the
11 provisions in the probation bond. If the parent notifies the court of
12 the juvenile's failure to comply with the probation bond, the court
13 shall notify the surety. As provided in the terms of the bond, the
14 surety shall provide notice to the court of the offender's
15 noncompliance. A juvenile shall not be released except to a
16 responsible adult. Failure to appear on the date scheduled by the
17 court pursuant to this section shall constitute the crime of bail
18 jumping.

19 **Sec. 4.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to read
20 as follows:

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

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

26 (b) A detention hearing, a community supervision modification or
27 termination of diversion petition, or a parole modification petition
28 shall be held within seventy-two hours, Saturdays, Sundays, and
29 holidays excluded, from the time of filing the information or petition,
30 to determine whether continued detention is necessary under RCW
31 13.40.040.

32 (2) Notice of the detention hearing, stating the time, place, and
33 purpose of the hearing, (~~and~~) stating the right to counsel, and
34 requiring attendance, shall be given to the parent, guardian, or
35 custodian if such person can be found and shall also be given to the
36 juvenile if over twelve years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (1) The respondent shall be advised of the allegations in the
4 information and shall be required to plead guilty or not guilty to the
5 allegation(s). The state or the respondent may make preliminary
6 motions up to the time of the plea.

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

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

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

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

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

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

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

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

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

4 **Sec. 6.** RCW 13.40.320 and 1994 sp.s. c 7 s 532 are each amended to
5 read as follows:

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

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

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

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

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

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

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

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

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

1 aftercare program shall be designed and funded by the department of
2 social and health services.

3 (9) The department shall also develop and maintain a data base to
4 measure recidivism rates specific to this incarceration program. The
5 data base shall maintain data on all juvenile offenders who complete
6 the juvenile offender basic training camp program for a period of two
7 years after they have completed the program. The data base shall also
8 maintain data on the criminal activity, educational progress, and
9 employment activities of all juvenile offenders who participated in the
10 program. The department shall produce an outcome evaluation report on
11 the progress of the juvenile offender basic training camp program to
12 the appropriate committees of the legislature no later than December
13 12, 1996.

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

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

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

33 **Sec. 8.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read
34 as follows:

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

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

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

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

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

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

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

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

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

13 (b) If the middle offender has less than 110 points, the court
14 shall impose a determinate disposition of community supervision and/or
15 up to thirty days confinement, as indicated in option B of schedule D-
16 2, RCW 13.40.0357 in which case, if confinement has been imposed, the
17 court shall state either aggravating or mitigating factors as set forth
18 in RCW 13.40.150. If the middle offender has 110 points or more, the
19 court may impose a disposition under option A and may suspend the
20 disposition on the condition that the offender serve up to thirty days
21 of confinement and follow all conditions of community supervision. If
22 the offender violates any condition of the disposition including
23 conditions of a probation bond, the court may impose sanctions pursuant
24 to RCW 13.40.200 or may revoke the suspension and order execution of
25 the disposition. The court shall give credit for any confinement time
26 previously served if that confinement was for the offense for which the
27 suspension is being revoked.

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

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

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

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

14 The examiner shall assess and report regarding the respondent's
15 amenability to treatment and relative risk to the community. A
16 proposed treatment plan shall be provided and shall include, at a
17 minimum:

18 (a)(i) Frequency and type of contact between the offender and
19 therapist;

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

22 (iii) Monitoring plans, including any requirements regarding living
23 conditions, lifestyle requirements, and monitoring by family members,
24 legal guardians, or others;

25 (iv) Anticipated length of treatment; and

26 (v) Recommended crime-related prohibitions.

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

33 After receipt of reports of the examination, the court shall then
34 consider whether the offender and the community will benefit from use
35 of this special sex offender disposition alternative and consider the
36 victim's opinion whether the offender should receive a treatment
37 disposition under this section. If the court determines that this
38 special sex offender disposition alternative is appropriate, then the
39 court shall impose a determinate disposition within the standard range

1 for the offense, or if the court concludes, and enters reasons for its
2 conclusion, that such disposition would effectuate a manifest
3 injustice, the court shall impose a disposition pursuant to option C of
4 schedule D-1, option C of schedule D-2, or option B of schedule D-3 as
5 appropriate, and the court may suspend the execution of the disposition
6 and place the offender on community supervision for ~~((up to))~~ no less
7 than two years. As a condition of the suspended disposition, the court
8 may impose the conditions of community supervision and other
9 conditions, including up to thirty days of confinement and requirements
10 that the offender do any one or more of the following:

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

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

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

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

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

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

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

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

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

1 requirements, treatment activities, the respondent's relative progress
2 in treatment, and any other material specified by the court at the time
3 of the disposition.

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

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

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

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

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

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

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

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

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

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

16 **Sec. 9.** RCW 13.40.210 and 1994 sp.s. c 7 s 527 are each amended to
17 read as follows:

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

37 (b) After expiration of no more than sixty percent of the
38 juvenile's commitment range, the department shall provide a report

1 containing an evaluation of the juvenile's behavior and performance
2 during commitment. This report shall specifically describe the
3 juvenile's progress toward achieving the designated rehabilitative
4 goals.

5 (c) The department shall provide this report to the committing
6 court. The court, after considering the department's report, shall
7 determine a release or discharge date for the juvenile, which date
8 shall fall on or before expiration of the original term of commitment.
9 If a substantial change in the juvenile's behavior occurs after the
10 setting of the release or discharge date, the department may submit an
11 updated report to the committing court. The committing court may
12 change the release or discharge date based upon the updated report.
13 Nothing in this subsection requires the court to hold a hearing in
14 setting the release or discharge date.

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

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

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

28 (2) The secretary shall monitor the average daily population of the
29 state's juvenile residential facilities. When the secretary concludes
30 that in-residence population of residential facilities exceeds one
31 hundred five percent of the rated bed capacity specified in statute, or
32 in absence of such specification, as specified by the department in
33 rule, the secretary may recommend reductions to the governor. On
34 certification by the governor that the recommended reductions are
35 necessary, the secretary has authority to administratively release a
36 sufficient number of offenders to reduce in-residence population to one
37 hundred percent of rated bed capacity. The secretary shall release
38 those offenders who have served the greatest proportion of their
39 sentence. However, the secretary may deny release in a particular case

1 at the request of an offender, or if the secretary finds that there is
2 no responsible custodian, as determined by the department, to whom to
3 release the offender, or if the release of the offender would pose a
4 clear danger to society. The department shall notify the committing
5 court of the release at the time of release if any such early releases
6 have occurred as a result of excessive in-residence population. In no
7 event shall an offender adjudicated of a violent offense be granted
8 release under the provisions of this subsection.

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

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

1 exceed thirty days in a facility operated by or pursuant to a contract
2 with the state of Washington or any city or county for a portion of
3 each day or for a certain number of days each week with the balance of
4 the days or weeks spent under supervision; and (v) the secretary may
5 order any of the conditions or may return the offender to confinement
6 in an institution for the remainder of the sentence range if the
7 offense for which the offender was sentenced is rape in the first or
8 second degree, rape of a child in the first or second degree, child
9 molestation in the first degree, indecent liberties with forcible
10 compulsion, or a sex offense that is also a serious violent offense as
11 defined by RCW 9.94A.030.

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

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

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

25 **Sec. 10.** RCW 13.40.025 and 1995 c 269 s 302 are each amended to
26 read as follows:

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

31 ~~(2) The commission)~~ guidelines committee. The committee shall be
32 composed of ~~((the secretary or the secretary's designee and the~~
33 ~~following nine members appointed by the governor, subject to~~
34 ~~confirmation by the senate:—(a))):~~ (1) A superior court judge;
35 ~~((b))~~ (2) a prosecuting attorney or deputy prosecuting attorney;
36 ~~((c))~~ (3) a representative from law enforcement ((officer)); ~~((d) an~~
37 ~~administrator of))~~ (4) a juvenile court ((services)) administrator;
38 ~~((e))~~ (5) a public defender actively practicing in juvenile court;

1 ~~((f))~~ (6) a (county legislative official or) representative from
2 county (executive) government; and ~~((g) three other persons who have~~
3 ~~demonstrated significant interest in the adjudication and disposition~~
4 ~~of juvenile offenders. In making the appointments, the governor shall~~
5 ~~seek the recommendations of the association of superior court judges in~~
6 ~~respect to the member who is a superior court judge; of Washington~~
7 ~~prosecutors in respect to the prosecuting attorney or deputy~~
8 ~~prosecuting attorney member; of the Washington association of sheriffs~~
9 ~~and police chiefs in respect to the member who is a law enforcement~~
10 ~~officer; of juvenile court administrators in respect to the member who~~
11 ~~is a juvenile court administrator; and of the state bar association in~~
12 ~~respect to the public defender member; and of the Washington~~
13 ~~association of counties in respect to the member who is either a county~~
14 ~~legislative official or county executive.~~

15 ~~(3) The secretary or the secretary's designee shall serve as~~
16 ~~chairman of the commission.~~

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

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

28 ~~(6) The commission shall cease to exist on June 30, 1997, and its~~
29 ~~powers and duties shall be transferred to the sentencing guidelines~~
30 ~~commission established under RCW 9.94A.040)) (7) a representative from~~
31 the juvenile rehabilitation administration. The members of the
32 committee shall be selected from the above groups in the same manner as
33 members of the sentencing guidelines commission as set forth in RCW
34 9.94A.060. The sentencing guidelines commission shall provide staff
35 support to the committee.

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

1 (~~(1)~~) It is the responsibility of the (~~commission~~) juvenile
2 disposition guidelines committee to(~~(:~~~~—(a)(i)~~) evaluate the
3 effectiveness of existing disposition standards and related statutes in
4 implementing policies set forth in RCW 13.40.010 (~~generally, (ii)~~
5 ~~specifically review the guidelines relating to the confinement of minor~~
6 ~~and first offenders as well as the use of diversion, and (iii) review~~
7 ~~the application of current and proposed juvenile sentencing standards~~
8 ~~and guidelines for potential adverse impacts on the sentencing outcomes~~
9 ~~of racial and ethnic minority youth; (b) solicit the comments and~~
10 ~~suggestions of the juvenile justice community concerning disposition~~
11 ~~standards; and (c) make recommendations to the legislature regarding~~
12 ~~revisions or modifications of the disposition standards in accordance~~
13 ~~with RCW 13.40.030. The evaluations shall be submitted to the~~
14 ~~legislature on December 1 of each even numbered year thereafter.~~

15 (2) It is the responsibility of the department to: (~~(a) Provide the~~
16 ~~commission with available data concerning the implementation of the~~
17 ~~disposition standards and related statutes and their effect on the~~
18 ~~performance of the department's responsibilities relating to juvenile~~
19 ~~offenders; (b) at the request of the commission, provide technical and~~
20 ~~administrative assistance to the commission in the performance of its~~
21 ~~responsibilities; and (c) provide the commission and legislature with~~
22 ~~recommendations for modification of the disposition standards)~~.

23 The juvenile rehabilitation administration shall provide all
24 available data to committee staff concerning juvenile dispositions
25 within the administration and report on the effect of current statutes
26 on the performance of the administration's responsibilities.

27 **Sec. 12.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
28 as follows:

29 (1)(a) The juvenile disposition (~~(standards commission)~~) guidelines
30 committee shall recommend to the legislature no later than November 1st
31 of each year disposition standards for all offenses. The standards
32 shall establish, in accordance with the purposes of this chapter,
33 ranges which may include terms of confinement and/or community
34 supervision established on the basis of a youth's age, the instant
35 offense, and the history and seriousness of previous offenses, but in
36 no case may the period of confinement and supervision exceed that to
37 which an adult may be subjected for the same offense(s). Standards
38 recommended for offenders listed in RCW 13.40.020(1) shall include a

1 range of confinement which may not be less than thirty days. No
2 standard range may include a period of confinement which includes both
3 more than thirty, and thirty or less, days. Disposition standards
4 recommended by the ((~~commission~~)) committee shall provide that in all
5 cases where a youth is sentenced to a term of confinement in excess of
6 thirty days the department may impose an additional period of parole
7 not to exceed eighteen months. Standards of confinement which may be
8 proposed may relate only to the length of the proposed terms and not to
9 the nature of the security to be imposed. In developing recommended
10 disposition standards, the ((~~commission~~)) committee shall consider the
11 capacity of the state juvenile facilities and the projected impact of
12 the proposed standards on that capacity.

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

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

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

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

1 ~~(c) Where the maximum term in the range is more than one year, the~~
2 ~~minimum term in the range may be no less than eighty percent of the~~
3 ~~maximum term in the range))~~ review the structure of the juvenile
4 dispositions grid and make recommendations to the legislature
5 concerning revisions of the grid.

6 **Sec. 13.** RCW 9A.04.050 and 1975 1st ex.s. c 260 s 9A.04.050 are
7 each amended to read as follows:

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

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

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

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

34 (3) The case and copies of all legal and social documents
35 pertaining thereto may in the discretion of the court be transferred to
36 the county in which the juvenile resides for supervision and

1 enforcement of the disposition order. The court of the receiving
2 county has jurisdiction to modify and enforce the disposition order.

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

7 **Sec. 15.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
8 each reenacted and amended to read as follows:

9 For the purposes of this chapter:

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

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

14 (b) Manslaughter in the first degree; or

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

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

27 (3) "Community supervision" means an order of disposition by the
28 court of an adjudicated youth not committed to the department or an
29 order granting a deferred adjudication pursuant to RCW 13.40.125. A
30 community supervision order for a single offense may be for a period of
31 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
32 one year for other offenses. As a mandatory condition of any term of
33 community supervision, the court shall order the juvenile to refrain
34 from committing new offenses. As a mandatory condition of community
35 supervision, the court shall order the juvenile to comply with the
36 mandatory school attendance provisions of chapter 28A.225 RCW and to
37 inform the school of the existence of this requirement. Community

1 supervision is an individualized program comprised of one or more of
2 the following:

3 (a) Community-based sanctions;

4 (b) Community-based rehabilitation;

5 (c) Monitoring and reporting requirements;

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

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

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

10 (b) Community service not to exceed one hundred fifty hours of
11 service;

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

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

28 (7) "Confinement" means physical custody by the department of
29 social and health services in a facility operated by or pursuant to a
30 contract with the state, or physical custody in a detention facility
31 operated by or pursuant to a contract with any county. The county may
32 operate or contract with vendors to operate county detention
33 facilities. The department may operate or contract to operate
34 detention facilities for juveniles committed to the department.
35 Pretrial confinement or confinement of less than thirty-one days
36 imposed as part of a disposition or modification order may be served
37 consecutively or intermittently, in the discretion of the court;

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

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

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

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

13 (10) "Department" means the department of social and health
14 services;

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

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

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

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

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

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

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

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

17 (a) Four misdemeanors;

18 (b) Two misdemeanors and one gross misdemeanor;

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

20 (d) Three gross misdemeanors.

21 For purposes of this definition, current violations shall be
22 counted as misdemeanors;

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

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

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

1 (22) "Secretary" means the secretary of the department of social
2 and health services. "Assistant secretary" means the assistant
3 secretary for juvenile rehabilitation for the department;

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

8 (24) "Sex offense" means an offense defined as a sex offense in RCW
9 9.94A.030;

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

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

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

19 (28) "Violent offense" means a violent offense as defined in RCW
20 9.94A.030;

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

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

32 **Sec. 16.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to
33 read as follows:

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SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

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

Arson and Malicious Mischief

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

**Assault and Other Crimes
Involving Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

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

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

1		Controlled Substance	
2		(69.50.401(d))	C
3	C	Violation of Uniform Controlled	
4		Substances Act - Possession of a	
5		Controlled Substance	
6		(69.50.401(c))	C
7		Firearms and Weapons	
8	E	Carrying Loaded Pistol Without	
9		Permit (9.41.050)	E
10	C	Possession of Firearms by	
11		Minor (<18) (9.41.040(1)((e))(b)(iv))	C
12	D+	Possession of Dangerous Weapon	
13		(9.41.250)	E
14	D	Intimidating Another Person by use	
15		of Weapon (9.41.270)	E
16		Homicide	
17	A+	Murder 1 (9A.32.030)	A
18	A+	Murder 2 (9A.32.050)	B+
19	B+	Manslaughter 1 (9A.32.060)	C+
20	C+	Manslaughter 2 (9A.32.070)	D+
21	B+	Vehicular Homicide (46.61.520)	C+
22		Kidnapping	
23	A	Kidnap 1 (9A.40.020)	B+
24	B+	Kidnap 2 (9A.40.030)	C+
25	C+	Unlawful Imprisonment	
26		(9A.40.040)	D+
27		Obstructing Governmental Operation	
28	E	Obstructing a	
29		Law Enforcement Officer	
30		(9A.76.020)	E
31	E	Resisting Arrest (9A.76.040)	E
32	B	Introducing Contraband 1	
33		(9A.76.140)	C
34	C	Introducing Contraband 2	
35		(9A.76.150)	D
36	E	Introducing Contraband 3	
37		(9A.76.160)	E

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

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

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

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

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

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

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

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

22 **SCHEDULE B**

23 **PRIOR OFFENSE INCREASE FACTOR**

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

26 **TIME SPAN**

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

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

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

9 **SCHEDULE C**
10 **CURRENT OFFENSE POINTS**

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

13 **AGE**

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

27 **JUVENILE SENTENCING STANDARDS**
28 **SCHEDULE D-1**

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

32 **MINOR/FIRST OFFENDER**

33 **OPTION A**

1 **STANDARD RANGE**

2 Community

3 Community Service

4 Points Supervision Hours Fine

5

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

17 **OR**

18 **OPTION B**

19 **STATUTORY OPTION**

20 0-90 Days Inpatient Substance Abuse Treatment

21 0-12 Months Community Supervision

22 ((0-150 Hours Community Service

23 0-100 Fine

24 Posting of a Probation Bond

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

27 **OR**

28 **OPTION C**

29 **MANIFEST INJUSTICE**

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

JUVENILE SENTENCING STANDARDS

SCHEDULE D-2

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

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

		Community Service	Hours	Fine	Confinement ((Days-Weeks))
	Points	Supervision			
.....					
	(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))				
					<u>(Days)</u>
	<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>
					<u>(Weeks)</u>
	<u>110-249</u>				30-40
	250-299				52-65
	300-374				80-100
	375+				103-129

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

OR

1 **JUVENILE SENTENCING STANDARDS**

2 **SCHEDULE D-3**

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

6 **SERIOUS OFFENDER**

7 **OPTION A**

8 **STANDARD RANGE**

9 Points Institution Time

10

11 ((0-129)-----8-12 weeks

12 130-149-----13-16 weeks

13 150-199-----21-28 weeks

14 200-249)) 0-249 30-40 weeks

15 250-299 52-65 weeks

16 300-374 80-100 weeks

17 375+ 103-129 weeks

18 All A+ Offenses 180-224 weeks

19 **OR**

20 **OPTION B**

21 **MANIFEST INJUSTICE**

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

--- **END** ---