

SENATE BILL 5376

State of Washington 63rd Legislature 2013 Regular Session

By Senators Kline, Fain, Shin, Nelson, Keiser, Carrell, McAuliffe, Hill, Litzow, Tom, and Kohl-Welles

Read first time 01/28/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to juvenile firearms and weapons crimes; and
2 amending RCW 13.40.0357, 13.40.127, 13.40.193, and 13.40.160.

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

4 Sec. 1. RCW 13.40.0357 and 2012 c 177 s 4 are each amended to read
5 as follows:

DESCRIPTION AND OFFENSE CATEGORY

Table with columns: JUVENILE DISPOSITION, CATEGORY FOR, ATTEMPT, BAILJUMP, CONSPIRACY, OR, SOLICITATION. Includes sub-headers: JUVENILE, DISPOSITION, OFFENSE, CATEGORY, DESCRIPTION (RCW CITATION).

Arson and Malicious Mischief

Table with 3 columns: Category (A, B, C), Description (Arson 1, Arson 2, Reckless Burning 1), and Disposition (B+, C, D).

1	D	Reckless Burning 2 (9A.48.050)	E
2	B	Malicious Mischief 1 (9A.48.070)	C
3	C	Malicious Mischief 2 (9A.48.080)	D
4	D	Malicious Mischief 3 (9A.48.090)	E
5			
6	E	Tampering with Fire Alarm Apparatus	
7		(9.40.100)	E
8	E	Tampering with Fire Alarm Apparatus with	
9		Intent to Commit Arson (9.40.105)	E
10	A	Possession of Incendiary Device (9.40.120)	B+
11		<b>Assault and Other Crimes Involving</b>	
12		<b>Physical Harm</b>	
13	A	Assault 1 (9A.36.011)	B+
14	B+	Assault 2 (9A.36.021)	C+
15	C+	Assault 3 (9A.36.031)	D+
16	D+	Assault 4 (9A.36.041)	E
17	B+	Drive-By Shooting (9A.36.045)	C+
18	D+	Reckless Endangerment (9A.36.050)	E
19	C+	Promoting Suicide Attempt (9A.36.060)	D+
20	D+	Coercion (9A.36.070)	E
21	C+	Custodial Assault (9A.36.100)	D+
22		<b>Burglary and Trespass</b>	
23	B+	Burglary 1 (9A.52.020)	C+
24	B	Residential Burglary (9A.52.025)	C
25	B	Burglary 2 (9A.52.030)	C
26	D	Burglary Tools (Possession of) (9A.52.060)	E
27	D	Criminal Trespass 1 (9A.52.070)	E
28	E	Criminal Trespass 2 (9A.52.080)	E
29	C	Mineral Trespass (78.44.330)	C
30	C	Vehicle Prowling 1 (9A.52.095)	D
31	D	Vehicle Prowling 2 (9A.52.100)	E
32		<b>Drugs</b>	
33	E	Possession/Consumption of Alcohol	
34		(66.44.270)	E
35	C	Illegally Obtaining Legend Drug	
36		(69.41.020)	D

1	C+	Sale, Delivery, Possession of Legend Drug	
2		with Intent to Sell (69.41.030(2)(a))	D+
3	E	Possession of Legend Drug	
4		(69.41.030(2)(b))	E
5	B+	Violation of Uniform Controlled Substances	
6		Act - Narcotic, Methamphetamine, or	
7		Flunitrazepam Sale (69.50.401(2) (a) or	
8		(b))	B+
9	C	Violation of Uniform Controlled Substances	
10		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
11	E	Possession of Marihuana <40 grams	
12		(69.50.4014)	E
13	C	Fraudulently Obtaining Controlled	
14		Substance (69.50.403)	C
15	C+	Sale of Controlled Substance for Profit	
16		(69.50.410)	C+
17	E	Unlawful Inhalation (9.47A.020)	E
18	B	Violation of Uniform Controlled Substances	
19		Act - Narcotic, Methamphetamine, or	
20		Flunitrazepam Counterfeit Substances	
21		(69.50.4011(2) (a) or (b))	B
22	C	Violation of Uniform Controlled Substances	
23		Act - Nonnarcotic Counterfeit Substances	
24		(69.50.4011(2) (c), (d), or (e))	C
25	C	Violation of Uniform Controlled Substances	
26		Act - Possession of a Controlled Substance	
27		(69.50.4013)	C
28	C	Violation of Uniform Controlled Substances	
29		Act - Possession of a Controlled Substance	
30		(69.50.4012)	C
31		<b>Firearms and Weapons</b>	
32	<u>A-</u>	<u>Unlawful Possession of a Firearm 1</u>	
33		<u>(9.41.040(1))</u>	<u>B+</u>
34	<u>B+</u>	<u>Unlawful Possession of a Firearm 2</u>	
35		<u>(9.41.040(2)(a)(i), (ii), or (iv))</u>	<u>C+</u>

1	<b>B+</b>	<u>Unlawful Possession of a Firearm 2</u>	
2		<u>(9.41.040(2)(a)(iii)) Second or subsequent</u>	
3		<u>offense</u>	<b>C+</b>
4	<b>B</b>	Theft of Firearm (9A.56.300)	<b>C</b>
5	<b>B</b>	Possession of Stolen Firearm (9A.56.310)	<b>C</b>
6	<b>E</b>	Carrying Loaded Pistol Without Permit	
7		(9.41.050)	<b>E</b>
8	<b>C</b>	Possession of Firearms by Minor (<18)	
9		(9.41.040(2)(a)(iii))	<b>C</b>
10	<b>D+</b>	Possession of Dangerous Weapon	
11		(9.41.250)	<b>E</b>
12	<b>D</b>	Intimidating Another Person by use of	
13		Weapon (9.41.270)	<b>E</b>
14		<b>Homicide</b>	
15	<b>A+</b>	Murder 1 (9A.32.030)	<b>A</b>
16	<b>A+</b>	Murder 2 (9A.32.050)	<b>B+</b>
17	<b>B+</b>	Manslaughter 1 (9A.32.060)	<b>C+</b>
18	<b>C+</b>	Manslaughter 2 (9A.32.070)	<b>D+</b>
19	<b>B+</b>	Vehicular Homicide (46.61.520)	<b>C+</b>
20		<b>Kidnapping</b>	
21	<b>A</b>	Kidnap 1 (9A.40.020)	<b>B+</b>
22	<b>B+</b>	Kidnap 2 (9A.40.030)	<b>C+</b>
23	<b>C+</b>	Unlawful Imprisonment (9A.40.040)	<b>D+</b>
24		<b>Obstructing Governmental Operation</b>	
25	<b>D</b>	Obstructing a Law Enforcement Officer	
26		(9A.76.020)	<b>E</b>
27	<b>E</b>	Resisting Arrest (9A.76.040)	<b>E</b>
28	<b>B</b>	Introducing Contraband 1 (9A.76.140)	<b>C</b>
29	<b>C</b>	Introducing Contraband 2 (9A.76.150)	<b>D</b>
30	<b>E</b>	Introducing Contraband 3 (9A.76.160)	<b>E</b>
31	<b>B+</b>	Intimidating a Public Servant (9A.76.180)	<b>C+</b>
32	<b>B+</b>	Intimidating a Witness (9A.72.110)	<b>C+</b>
33		<b>Public Disturbance</b>	
34	<b>C+</b>	Riot with Weapon (9A.84.010(2)(b))	<b>D+</b>
35	<b>D+</b>	Riot Without Weapon (9A.84.010(2)(a))	<b>E</b>
36	<b>E</b>	Failure to Disperse (9A.84.020)	<b>E</b>

1	E	Disorderly Conduct (9A.84.030)	E
2		<b>Sex Crimes</b>	
3	A	Rape 1 (9A.44.040)	B+
4	A-	Rape 2 (9A.44.050)	B+
5	C+	Rape 3 (9A.44.060)	D+
6	A-	Rape of a Child 1 (9A.44.073)	B+
7	B+	Rape of a Child 2 (9A.44.076)	C+
8	B	Incest 1 (9A.64.020(1))	C
9	C	Incest 2 (9A.64.020(2))	D
10	D+	Indecent Exposure (Victim <14)	
11		(9A.88.010)	E
12	E	Indecent Exposure (Victim 14 or over)	
13		(9A.88.010)	E
14	B+	Promoting Prostitution 1 (9A.88.070)	C+
15	C+	Promoting Prostitution 2 (9A.88.080)	D+
16	E	O & A (Prostitution) (9A.88.030)	E
17	B+	Indecent Liberties (9A.44.100)	C+
18	A-	Child Molestation 1 (9A.44.083)	B+
19	B	Child Molestation 2 (9A.44.086)	C+
20	C	Failure to Register as a Sex Offender	
21		(9A.44.132)	D
22		<b>Theft, Robbery, Extortion, and Forgery</b>	
23	B	Theft 1 (9A.56.030)	C
24	C	Theft 2 (9A.56.040)	D
25	D	Theft 3 (9A.56.050)	E
26	B	Theft of Livestock 1 and 2 (9A.56.080 and	
27		9A.56.083)	C
28	C	Forgery (9A.60.020)	D
29	A	Robbery 1 (9A.56.200)	B+
30	B+	Robbery 2 (9A.56.210)	C+
31	B+	Extortion 1 (9A.56.120)	C+
32	C+	Extortion 2 (9A.56.130)	D+
33	C	Identity Theft 1 (9.35.020(2))	D
34	D	Identity Theft 2 (9.35.020(3))	E
35	D	Improperly Obtaining Financial Information	
36		(9.35.010)	E
37	B	Possession of a Stolen Vehicle (9A.56.068)	C

1	B	Possession of Stolen Property 1	
2		(9A.56.150)	C
3	C	Possession of Stolen Property 2	
4		(9A.56.160)	D
5	D	Possession of Stolen Property 3	
6		(9A.56.170)	E
7	B	Taking Motor Vehicle Without Permission	
8		1 (9A.56.070)	C
9	C	Taking Motor Vehicle Without Permission	
10		2 (9A.56.075)	D
11	B	Theft of a Motor Vehicle (9A.56.065)	C
12		<b>Motor Vehicle Related Crimes</b>	
13	E	Driving Without a License (46.20.005)	E
14	B+	Hit and Run - Death (46.52.020(4)(a))	C+
15	C	Hit and Run - Injury (46.52.020(4)(b))	D
16	D	Hit and Run-Attended (46.52.020(5))	E
17	E	Hit and Run-Unattended (46.52.010)	E
18	C	Vehicle Assault (46.61.522)	D
19	C	Attempting to Elude Pursuing Police	
20		Vehicle (46.61.024)	D
21	E	Reckless Driving (46.61.500)	E
22	D	Driving While Under the Influence	
23		(46.61.502 and 46.61.504)	E
24	B+	Felony Driving While Under the Influence	
25		(46.61.502(6))	B
26	B+	Felony Physical Control of a Vehicle While	
27		Under the Influence (46.61.504(6))	B
28		<b>Other</b>	
29	B	Animal Cruelty 1 (16.52.205)	C
30	B	Bomb Threat (9.61.160)	C
31	C	Escape 1 <sup>1</sup> (9A.76.110)	C
32	C	Escape 2 <sup>1</sup> (9A.76.120)	C
33	D	Escape 3 (9A.76.130)	E
34	E	Obscene, Harassing, Etc., Phone Calls	
35		(9.61.230)	E

1	A	Other Offense Equivalent to an Adult Class	
2		A Felony	B+
3	B	Other Offense Equivalent to an Adult Class	
4		B Felony	C
5	C	Other Offense Equivalent to an Adult Class	
6		C Felony	D
7	D	Other Offense Equivalent to an Adult Gross	
8		Misdemeanor	E
9	E	Other Offense Equivalent to an Adult	
10		Misdemeanor	E
11	V	Violation of Order of Restitution,	
12		Community Supervision, or Confinement	
13		(13.40.200) <sup>2</sup>	V

14 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
15 and the standard range is established as follows:

- 16 1st escape or attempted escape during 12-month period - 4 weeks
- 17 confinement
- 18 2nd escape or attempted escape during 12-month period - 8 weeks
- 19 confinement
- 20 3rd and subsequent escape or attempted escape during 12-month
- 21 period - 12 weeks confinement

22 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
23 it may impose a penalty of up to 30 days of confinement.

24 **JUVENILE SENTENCING STANDARDS**

25 This schedule must be used for juvenile offenders. The court may  
26 select sentencing option A, B, C, D, or RCW 13.40.167.

27 OPTION A  
28 JUVENILE OFFENDER SENTENCING GRID  
29 STANDARD RANGE

30	A+	180 weeks to age 21 for all category A+ offenses
31	A	103-129 weeks for all category A offenses

1	A-	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
2		Except 30-40 weeks					
3		for 15 to 17 year olds					
4	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
5	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
6	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
7		C	LS	LS	LS	LS	15-36 weeks
8		D+	LS	LS	LS	LS	LS
9		D	LS	LS	LS	LS	LS
10		E	LS	LS	LS	LS	LS
11							
12	PRIOR		0	1	2	3	4 or more
13	ADJUDICATIONS						

14 NOTE: References in the grid to days or weeks mean periods of  
15 confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

16 (1) The vertical axis of the grid is the current offense category.  
17 The current offense category is determined by the offense of  
18 adjudication.

19 (2) The horizontal axis of the grid is the number of prior  
20 adjudications included in the juvenile's criminal history. Each prior  
21 felony adjudication shall count as one point. Each prior violation,  
22 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
23 point. Fractional points shall be rounded down.

24 (3) The standard range disposition for each offense is determined  
25 by the intersection of the column defined by the prior adjudications  
26 and the row defined by the current offense category.

27 (4) RCW 13.40.180 applies if the offender is being sentenced for  
28 more than one offense.

29 (5) A current offense that is a violation is equivalent to an  
30 offense category of E. However, a disposition for a violation shall  
31 not include confinement.

32 **OR**

33 **OPTION B**

34 **SUSPENDED DISPOSITION ALTERNATIVE**



1 (1) If the offender is subject to a standard range disposition  
2 involving confinement by the department, the court may impose the  
3 standard range and suspend the disposition on condition that the  
4 offender comply with one or more local sanctions and any educational or  
5 treatment requirement. The treatment programs provided to the offender  
6 must be either research-based best practice programs as identified by  
7 the Washington state institute for public policy or the joint  
8 legislative audit and review committee, or for chemical dependency  
9 treatment programs or services, they must be evidence-based or  
10 research-based best practice programs. For the purposes of this  
11 subsection:

12 (a) "Evidence-based" means a program or practice that has had  
13 multiple site random controlled trials across heterogeneous populations  
14 demonstrating that the program or practice is effective for the  
15 population; and

16 (b) "Research-based" means a program or practice that has some  
17 research demonstrating effectiveness, but that does not yet meet the  
18 standard of evidence-based practices.

19 (2) If the offender fails to comply with the suspended disposition,  
20 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke  
21 the suspended disposition and order the disposition's execution.

22 (3) An offender is ineligible for the suspended disposition option  
23 under this section if the offender is:

24 (a) Adjudicated of an A+ offense;

25 (b) Fourteen years of age or older and is adjudicated of one or  
26 more of the following offenses:

27 (i) A class A offense, or an attempt, conspiracy, or solicitation  
28 to commit a class A offense;

29 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

30 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
31 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
32 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
33 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
34 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
35 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
36 witness (RCW 9A.72.110), violation of the uniform controlled substances  
37 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),

1 when the offense includes infliction of bodily harm upon another or  
2 when during the commission or immediate withdrawal from the offense the  
3 respondent was armed with a deadly weapon;

4 (c) Ordered to serve a disposition for a firearm violation under  
5 RCW 13.40.193; or

6 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

7 OR

8 **OPTION C**

9 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

10 If the juvenile offender is subject to a standard range disposition  
11 of local sanctions or 15 to 36 weeks of confinement and has not  
12 committed an A- or B+ offense, the court may impose a disposition under  
13 RCW 13.40.160(4) and 13.40.165.

14 OR

15 **OPTION D**

16 **MANIFEST INJUSTICE**

17 If the court determines that a disposition under option A, B, or C  
18 would effectuate a manifest injustice, the court shall impose a  
19 disposition outside the standard range under RCW 13.40.160(2).

20 **Sec. 2.** RCW 13.40.127 and 2012 c 177 s 1 are each amended to read  
21 as follows:

22 (1) A juvenile is eligible for deferred disposition unless he or  
23 she:

24 (a) Is charged with a sex or violent offense;

25 (b) Is charged with unlawful possession of a firearm in the second  
26 degree, theft of a firearm, or possession of a stolen firearm;

27 (c) Has a criminal history which includes any felony;

28 ~~((+e))~~ (d) Has a prior deferred disposition or deferred  
29 adjudication; or

30 ~~((+d))~~ (e) Has two or more adjudications.

31 (2) The juvenile court may, upon motion at least fourteen days  
32 before commencement of trial and, after consulting the juvenile's  
33 custodial parent or parents or guardian and with the consent of the  
34 juvenile, continue the case for disposition for a period not to exceed  
35 one year from the date the juvenile is found guilty. The court shall

1 consider whether the offender and the community will benefit from a  
2 deferred disposition before deferring the disposition. The court may  
3 waive the fourteen-day period anytime before the commencement of trial  
4 for good cause.

5 (3) Any juvenile who agrees to a deferral of disposition shall:

6 (a) Stipulate to the admissibility of the facts contained in the  
7 written police report;

8 (b) Acknowledge that the report will be entered and used to support  
9 a finding of guilt and to impose a disposition if the juvenile fails to  
10 comply with terms of supervision;

11 (c) Waive the following rights to: (i) A speedy disposition; and  
12 (ii) call and confront witnesses; and

13 (d) Acknowledge the direct consequences of being found guilty and  
14 the direct consequences that will happen if an order of disposition is  
15 entered.

16 The adjudicatory hearing shall be limited to a reading of the  
17 court's record.

18 (4) Following the stipulation, acknowledgment, waiver, and entry of  
19 a finding or plea of guilt, the court shall defer entry of an order of  
20 disposition of the juvenile.

21 (5) Any juvenile granted a deferral of disposition under this  
22 section shall be placed under community supervision. The court may  
23 impose any conditions of supervision that it deems appropriate  
24 including posting a probation bond. Payment of restitution under RCW  
25 13.40.190 shall be a condition of community supervision under this  
26 section.

27 The court may require a juvenile offender convicted of animal  
28 cruelty in the first degree to submit to a mental health evaluation to  
29 determine if the offender would benefit from treatment and such  
30 intervention would promote the safety of the community. After  
31 consideration of the results of the evaluation, as a condition of  
32 community supervision, the court may order the offender to attend  
33 treatment to address issues pertinent to the offense.

34 (6) A parent who signed for a probation bond has the right to  
35 notify the counselor if the juvenile fails to comply with the bond or  
36 conditions of supervision. The counselor shall notify the court and  
37 surety of any failure to comply. A surety shall notify the court of  
38 the juvenile's failure to comply with the probation bond. The state

1 shall bear the burden to prove, by a preponderance of the evidence,  
2 that the juvenile has failed to comply with the terms of community  
3 supervision.

4 (7)(a) Anytime prior to the conclusion of the period of  
5 supervision, the prosecutor or the juvenile's juvenile court community  
6 supervision counselor may file a motion with the court requesting the  
7 court revoke the deferred disposition based on the juvenile's lack of  
8 compliance or treat the juvenile's lack of compliance as a violation  
9 pursuant to RCW 13.40.200.

10 (b) If the court finds the juvenile failed to comply with the terms  
11 of the deferred disposition, the court may:

12 (i) Revoke the deferred disposition and enter an order of  
13 disposition; or

14 (ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

15 (8) At any time following deferral of disposition the court may,  
16 following a hearing, continue supervision for an additional one-year  
17 period for good cause.

18 (9)(a) At the conclusion of the period of supervision, the court  
19 shall determine whether the juvenile is entitled to dismissal of the  
20 deferred disposition only when the court finds:

21 (i) The deferred disposition has not been previously revoked;

22 (ii) The juvenile has completed the terms of supervision;

23 (iii) There are no pending motions concerning lack of compliance  
24 pursuant to subsection (7) of this section; and

25 (iv) The juvenile has either paid the full amount of restitution,  
26 or, made a good faith effort to pay the full amount of restitution  
27 during the period of supervision.

28 (b) If the court finds the juvenile is entitled to dismissal of the  
29 deferred disposition pursuant to (a) of this subsection, the juvenile's  
30 conviction shall be vacated and the court shall dismiss the case with  
31 prejudice, except that a conviction under RCW 16.52.205 shall not be  
32 vacated. Whenever a case is dismissed with restitution still owing,  
33 the court shall enter a restitution order pursuant to RCW 13.40.190 for  
34 any unpaid restitution. Jurisdiction to enforce payment and modify  
35 terms of the restitution order shall be the same as those set forth in  
36 RCW 13.40.190.

37 (c) If the court finds the juvenile is not entitled to dismissal of  
38 the deferred disposition pursuant to (a) of this subsection, the court

1 shall revoke the deferred disposition and enter an order of  
2 disposition. A deferred disposition shall remain a conviction unless  
3 the case is dismissed and the conviction is vacated pursuant to (b) of  
4 this subsection or sealed pursuant to RCW 13.50.050.

5 (10)(a)(i) Any time the court vacates a conviction pursuant to  
6 subsection (9) of this section, if the juvenile is eighteen years of  
7 age or older and the full amount of restitution ordered has been paid,  
8 the court shall enter a written order sealing the case.

9 (ii) Any time the court vacates a conviction pursuant to subsection  
10 (9) of this section, if the juvenile is not eighteen years of age or  
11 older and full restitution ordered has been paid, the court shall  
12 schedule an administrative sealing hearing to take place no later than  
13 thirty days after the respondent's eighteenth birthday, at which time  
14 the court shall enter a written order sealing the case. The  
15 respondent's presence at the administrative sealing hearing is not  
16 required.

17 (iii) Any deferred disposition vacated prior to June 7, 2012, is  
18 not subject to sealing under this subsection.

19 (b) Nothing in this subsection shall preclude a juvenile from  
20 petitioning the court to have the records of his or her deferred  
21 dispositions sealed under RCW 13.50.050 (11) and (12).

22 (c) Records sealed under this provision shall have the same legal  
23 status as records sealed under RCW 13.50.050.

24 **Sec. 3.** RCW 13.40.193 and 2003 c 53 s 100 are each amended to read  
25 as follows:

26 (1) If a respondent is found to have been in possession of a  
27 firearm in violation of RCW 9.41.040(~~((2)(a)(iii), the court shall~~  
28 ~~impose a minimum disposition of ten days of confinement. If)), and the  
29 offender's standard range of disposition for the offense as indicated  
30 in RCW 13.40.0357 is more than thirty days of confinement, the court  
31 shall commit the offender to the department for the standard range  
32 disposition. ~~((The offender shall not be released until the offender~~  
33 ~~has served a minimum of ten days in confinement.)) However, if a  
34 respondent is found to have been in possession of a firearm in  
35 violation of RCW 9.41.040(2)(a)(iii) and the offender's standard range  
36 of disposition for the offense as indicated in RCW 13.40.0357 is less~~~~

1 than thirty days of confinement, the court shall impose a minimum  
2 disposition of ten days of confinement.

3 (2) If the court finds that the respondent or an accomplice was  
4 armed with a firearm, the court shall determine the standard range  
5 disposition for the offense pursuant to RCW 13.40.160. If the offender  
6 or an accomplice was armed with a firearm when the offender committed  
7 any felony other than possession of a machine gun, possession of a  
8 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
9 possession of a firearm in the first and second degree, or use of a  
10 machine gun in a felony, the following periods of total confinement  
11 must be added to the sentence: For a class A felony, six months; for  
12 a class B felony, four months; and for a class C felony, two months.  
13 The additional time shall be imposed regardless of the offense's  
14 juvenile disposition offense category as designated in RCW 13.40.0357.

15 ~~(3) ((When a disposition under this section would effectuate a~~  
16 ~~manifest injustice, the court may impose another disposition. When a~~  
17 ~~judge finds a manifest injustice and imposes a disposition of~~  
18 ~~confinement exceeding thirty days, the court shall commit the juvenile~~  
19 ~~to a maximum term, and the provisions of RCW 13.40.030(2) shall be used~~  
20 ~~to determine the range. When a judge finds a manifest injustice and~~  
21 ~~imposes a disposition of confinement less than thirty days, the~~  
22 ~~disposition shall be comprised of confinement or community supervision~~  
23 ~~or both.~~

24 ~~(4))~~ Any term of confinement ordered pursuant to this section  
25 shall run consecutively to any term of confinement imposed in the same  
26 disposition for other offenses.

27 **Sec. 4.** RCW 13.40.160 and 2011 c 338 s 2 are each amended to read  
28 as follows:

29 (1) The standard range disposition for a juvenile adjudicated of an  
30 offense is determined according to RCW 13.40.0357.

31 (a) When the court sentences an offender to a local sanction as  
32 provided in RCW 13.40.0357 option A, the court shall impose a  
33 determinate disposition within the standard ranges, except as provided  
34 in subsection (2), (3), (4), (5), or (6) of this section. The  
35 disposition may be comprised of one or more local sanctions.

36 (b) When the court sentences an offender to a standard range as  
37 provided in RCW 13.40.0357 option A that includes a term of confinement

1 exceeding thirty days, commitment shall be to the department for the  
2 standard range of confinement, except as provided in subsection (2),  
3 (3), (4), (5), or (6) of this section.

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

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

19 (3) If a juvenile offender is found to have committed a sex  
20 offense, other than a sex offense that is also a serious violent  
21 offense as defined by RCW 9.94A.030, and has no history of a prior sex  
22 offense, the court may impose the special sex offender disposition  
23 alternative under RCW 13.40.162.

24 (4) If the juvenile offender is subject to a standard range  
25 disposition of local sanctions or 15 to 36 weeks of confinement and has  
26 not committed an A- or B+ offense, the court may impose the disposition  
27 alternative under RCW 13.40.165.

28 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
29 confinement, the court may impose the disposition alternative under RCW  
30 13.40.167.

31 (6) When the offender is subject to a standard range commitment of  
32 15 to 36 weeks and is ineligible for a suspended disposition  
33 alternative, a manifest injustice disposition below the standard range,  
34 special sex offender disposition alternative, chemical dependency  
35 disposition alternative, or mental health disposition alternative, the  
36 court in a county with a pilot program under RCW 13.40.169 may impose  
37 the disposition alternative under RCW 13.40.169.

1 (7) RCW 13.40.193 shall govern the disposition of any juvenile  
2 adjudicated of possessing a firearm in violation of RCW  
3 9.41.040(~~(2)(a)(iii)~~) or any crime in which a special finding is  
4 entered that the juvenile was armed with a firearm.

5 (8) RCW 13.40.308 shall govern the disposition of any juvenile  
6 adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065,  
7 possession of a stolen motor vehicle as defined under RCW 9A.56.068,  
8 taking a motor vehicle without permission in the first degree under RCW  
9 9A.56.070, and taking a motor vehicle without permission in the second  
10 degree under RCW 9A.56.075.

11 (9) Whenever a juvenile offender is entitled to credit for time  
12 spent in detention prior to a dispositional order, the dispositional  
13 order shall specifically state the number of days of credit for time  
14 served.

15 (10) Except as provided under subsection (3), (4), (5), or (6) of  
16 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the  
17 court shall not suspend or defer the imposition or the execution of the  
18 disposition.

19 (11) In no case shall the term of confinement imposed by the court  
20 at disposition exceed that to which an adult could be subjected for the  
21 same offense.

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