

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1646

66th Legislature
2019 Regular Session

Passed by the House April 18, 2019
Yeas 56 Nays 38

Speaker of the House of Representatives

Passed by the Senate April 15, 2019
Yeas 29 Nays 19

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1646** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1646

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Goodman, Eslick, Senn, Corry, Irwin, Griffey, Lovick, Graham, Davis, Frame, Appleton, Jinkins, Valdez, and Ormsby)

READ FIRST TIME 02/28/19.

1 AN ACT Relating to confinement in juvenile rehabilitation
2 facilities; amending RCW 72.01.410, 13.40.300, 13.40.0357, 13.04.030,
3 and 13.40.110; amending 2018 c 162 s 9 (uncodified); adding new
4 sections to chapter 72.01 RCW; adding a new section to chapter 43.216
5 RCW; creating new sections; prescribing penalties; and providing an
6 expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature recognizes state and
9 national efforts to reform policies that incarcerate youth and young
10 adults in the adult criminal justice system. The legislature
11 acknowledges that transferring youth and young adults to the adult
12 criminal justice system is not effective in reducing future criminal
13 behavior. Youth and young adults incarcerated in the adult criminal
14 justice system are more likely to recidivate than their counterparts
15 housed in juvenile facilities.

16 The legislature intends to enhance community safety by
17 emphasizing rehabilitation of juveniles convicted even of the most
18 serious violent offenses under the adult criminal justice system.
19 Juveniles adjudicated as adults should be served and housed within
20 the facilities of the juvenile rehabilitation administration up until
21 age twenty-five, but released earlier if their sentence ends prior to

1 that. In doing so, the legislature takes advantage of recent changes
2 made by congress during the reauthorization of the juvenile justice
3 and delinquency prevention act by the juvenile justice reform act of
4 2018 that allow youth and young adults who at the time of their
5 offense are younger than the maximum age of confinement in a juvenile
6 correctional facility, to be placed in a juvenile correctional
7 facility by operation of state law. The emphasis on rehabilitation up
8 to age twenty-five reflects similar programming in other states,
9 which has significantly reduced recidivism of juveniles confined in
10 adult correctional facilities.

11 **Sec. 2.** RCW 72.01.410 and 2017 3rd sp.s. c 6 s 728 are each
12 amended to read as follows:

13 (1) Whenever any ~~((child under the age of eighteen))~~ person is
14 convicted as an adult in the courts of this state of a ~~((crime~~
15 ~~amounting to a))~~ felony offense committed under the age of eighteen,
16 and is committed for a term of confinement, that ~~((child))~~ person
17 shall be initially placed in a facility operated by the department of
18 ~~((corrections to))~~ children, youth, and families. The department of
19 corrections shall determine the ~~((child's))~~ person's earned release
20 date.

21 (a) ~~((If the earned release date is prior to the child's twenty-~~
22 ~~first birthday, the department of corrections shall transfer the~~
23 ~~child to the custody of the department of children, youth, and~~
24 ~~families, or to such other institution as is now, or may hereafter be~~
25 ~~authorized by law to receive such child, until such time as the child~~
26 ~~completes the ordered term of confinement or arrives at the age of~~
27 ~~twenty-one years.~~

28 ~~(i))~~ While in the custody of the department of children, youth,
29 and families, the ~~((child))~~ person must have the same treatment,
30 housing options, transfer, and access to program resources as any
31 other ~~((child))~~ person committed ~~((directly))~~ to that juvenile
32 correctional facility or institution pursuant to chapter 13.40 RCW.
33 Except as provided under (d) of this subsection, treatment,
34 placement, and program decisions shall be at the sole discretion of
35 the department of children, youth, and families. The ((youth)) person
36 shall ((only)) not be transferred ~~((back))~~ to the custody of the
37 department of corrections ~~((with))~~ without the approval of the
38 department of children, youth, and families ~~((or when the child))~~
39 until the person reaches the age of ((twenty-one)) twenty-five.

1 ~~((iii))~~ (b) If the ~~((child's))~~ person's sentence includes a term
2 of community custody, the department of children, youth, and families
3 shall not release the ~~((child))~~ person to community custody until the
4 department of corrections has approved the ~~((child's))~~ person's
5 release plan pursuant to RCW 9.94A.729(5)(b). If a ~~((child))~~ person
6 is held past his or her earned release date pending release plan
7 approval, the department of children, youth, and families shall
8 retain custody until a plan is approved or the ~~((child))~~ person
9 completes the ordered term of confinement prior to age ~~((twenty-one))~~
10 twenty-five.

11 ~~((iii))~~ (c) If the department of children, youth, and families
12 determines that retaining custody of the ~~((child))~~ person in a
13 facility of the department of children, youth, and families presents
14 a significant safety risk, the ~~((child may be returned))~~ department
15 of children, youth, and families may transfer the person to the
16 custody of the department of corrections.

17 ~~((b) If the child's earned release date is on or after the~~
18 ~~child's twenty-first birthday, the department of corrections shall,~~
19 ~~with the consent of the secretary of children, youth, and families,~~
20 ~~transfer the child to a facility or institution operated by the~~
21 ~~department of children, youth, and families. Despite the transfer,))~~

22 (d) The department of corrections ~~((retains))~~ must retain authority
23 over custody decisions relating to a person whose earned release date
24 is on or after the person's twenty-fifth birthday and who is placed
25 in a facility operated by the department of children, youth, and
26 families under this section, unless the person qualifies for partial
27 confinement under section 6 of this act, and must approve any leave
28 from the facility. When the ~~((child))~~ person turns age ~~((twenty-one))~~
29 twenty-five, he or she must be transferred ~~((back))~~ to the department
30 of corrections, except as described under section 6 of this act. The
31 department of children, youth, and families has all routine and day-
32 to-day operations authority for the ~~((child))~~ person while the person
33 is in its custody.

34 (2)(a) Except as provided in (b) and (c) of this subsection, ~~((an~~
35 ~~offender))~~ a person under the age of eighteen who is ~~((convicted in~~
36 ~~adult criminal court and who is committed to a term of confinement~~
37 ~~at))~~ transferred to the custody of the department of corrections must
38 be placed in a housing unit, or a portion of a housing unit, that is
39 separated from ~~((offenders))~~ other persons in custody who are

1 eight years of age or older, until the ~~((offender))~~ person reaches
2 the age of eighteen.

3 (b) ~~((An offender))~~ A person who is transferred to the custody of
4 the department of corrections and reaches eighteen years of age may
5 remain in a housing unit for ~~((offenders))~~ persons under the age of
6 eighteen if the secretary of corrections determines that: (i) The
7 ~~((offender's))~~ person's needs and the ~~((correctional))~~ rehabilitation
8 goals for the ~~((offender))~~ person could continue to be better met by
9 the programs and housing environment that is separate from
10 ~~((offenders))~~ other persons in custody who are eighteen years of age
11 and older; and (ii) the programs or housing environment for
12 ~~((offenders))~~ persons under the age of eighteen will not be
13 substantially affected by the continued placement of the ~~((offender))~~
14 person in that environment. The ~~((offender))~~ person may remain placed
15 in a housing unit for ~~((offenders))~~ persons under the age of eighteen
16 until such time as the secretary of corrections determines that the
17 ~~((offender's))~~ person's needs and ~~((correctional))~~ goals are no
18 longer better met in that environment but in no case past the
19 ~~((offender's twenty-first))~~ person's twenty-fifth birthday.

20 (c) ~~((An offender))~~ A person transferred to the custody of the
21 department of corrections who is under the age of eighteen may be
22 housed in an intensive management unit or administrative segregation
23 unit containing offenders eighteen years of age or older if it is
24 necessary for the safety or security of the offender or staff. In
25 these cases, the offender must be kept physically separate from other
26 offenders at all times.

27 (3) The department of children, youth, and families must review
28 the placement of a person over age twenty-one in the custody of the
29 department of children, youth, and families under this section to
30 determine whether the person should be transferred to the custody of
31 the department of corrections. The department of children, youth, and
32 families may determine the frequency of the review required under
33 this subsection, but the review must occur at least once before the
34 person reaches age twenty-three if the person's commitment period in
35 a juvenile institution extends beyond the person's twenty-third
36 birthday.

37 **Sec. 3.** RCW 13.40.300 and 2018 c 162 s 7 are each amended to
38 read as follows:

1 (1) Except as provided in subsection (2) of this section, a
2 juvenile offender may not be committed by the juvenile court to the
3 department of children, youth, and families for placement in a
4 juvenile (~~correctional institution~~) rehabilitation facility beyond
5 the juvenile offender's twenty-first birthday.

6 (2) A juvenile offender (~~convicted~~) adjudicated of an A++
7 juvenile disposition category offense listed in RCW 13.40.0357, or
8 found to be armed with a firearm and sentenced to an additional
9 twelve months pursuant to RCW 13.40.193(3)(b), may be committed by
10 the juvenile court to the department of children, youth, and families
11 for placement in a juvenile (~~correctional institution~~)
12 rehabilitation facility up to the juvenile offender's twenty-fifth
13 birthday, but not beyond.

14 (3) A juvenile may be under the jurisdiction of the juvenile
15 court or the authority of the department of children, youth, and
16 families beyond the juvenile's eighteenth birthday only if prior to
17 the juvenile's eighteenth birthday:

18 (a) Proceedings are pending seeking the adjudication of a
19 juvenile offense and the court by written order setting forth its
20 reasons extends jurisdiction of juvenile court over the juvenile
21 beyond his or her eighteenth birthday, except:

22 (i) If the court enters a written order extending jurisdiction
23 under this subsection, it shall not extend jurisdiction beyond the
24 juvenile's twenty-first birthday;

25 (ii) If the order fails to specify a specific date, it shall be
26 presumed that jurisdiction is extended to age twenty-one; and

27 (iii) If the juvenile court previously extended jurisdiction
28 beyond the juvenile's eighteenth birthday, and that period of
29 extension has not expired, the court may further extend jurisdiction
30 by written order setting forth its reasons;

31 (b) The juvenile has been found guilty after a fact finding or
32 after a plea of guilty and an automatic extension is necessary to
33 allow for the imposition of disposition;

34 (c) Disposition has been held and an automatic extension is
35 necessary to allow for the execution and enforcement of the court's
36 order of disposition, subject to the following:

37 (i) If an order of disposition imposes commitment to the
38 department, then jurisdiction is automatically extended to include a
39 period of up to twelve months of parole, in no case extending beyond
40 the offender's twenty-first birthday, except;

1 (ii) If an order of disposition imposes a commitment to the
2 department for a juvenile offender (~~(convicted)~~) adjudicated of an
3 A++ juvenile disposition category offense listed in RCW 13.40.0357,
4 or found to be armed with a firearm and sentenced to an additional
5 twelve months pursuant to RCW 13.40.193(3)(b), then jurisdiction for
6 parole is automatically extended to include a period of up to twenty-
7 four months of parole, in no case extending beyond the offender's
8 twenty-fifth birthday;

9 (d) While proceedings are pending in a case in which jurisdiction
10 is vested in the adult criminal court pursuant to RCW 13.04.030, the
11 juvenile turns eighteen years of age and is subsequently found not
12 guilty of the charge for which he or she was transferred, or is
13 convicted in the adult criminal court of (~~(a lesser included)~~) an
14 offense that is not also an offense listed in RCW 13.04.030(1)(e)(v),
15 and an automatic extension is necessary to impose the juvenile
16 disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

17 (e) Pursuant to the terms of RCW 13.40.190 and 13.40.198, the
18 juvenile court maintains jurisdiction beyond the juvenile offender's
19 twenty-first birthday for the purpose of enforcing an order of
20 restitution or penalty assessment.

21 (4) Except as otherwise provided herein, in no event may the
22 juvenile court have authority to extend jurisdiction over any
23 juvenile offender beyond the juvenile offender's twenty-first
24 birthday.

25 (5) Notwithstanding any extension of jurisdiction over a person
26 pursuant to this section, the juvenile court has no jurisdiction over
27 any offenses alleged to have been committed by a person eighteen
28 years of age or older.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.01
30 RCW to read as follows:

31 (1) Any person in the custody of the department of social and
32 health services or the department of children, youth, and families on
33 or before the effective date of this section, who was under the age
34 of eighteen at the time of the commission of the offense and who was
35 convicted as an adult, must remain in the custody of the department
36 of children, youth, and families until transfer to the department of
37 corrections or release pursuant to RCW 72.01.410.

38 (2) Any person in the custody of the department of corrections on
39 the effective date of this section, who was under the age of eighteen

1 at the time of the commission of the offense and who was convicted as
2 an adult, and who has not yet reached the age of twenty-five, is
3 eligible for transfer to the custody of the department of children,
4 youth, and families beginning January 1, 2020, subject to the process
5 established in subsection (3) of this section.

6 (3) By February 1, 2020, the department of corrections and the
7 department of children, youth, and families must review and determine
8 whether a person identified in subsection (2) of this section should
9 transfer from the department of corrections to the department of
10 children, youth, and families through the following process:

11 (a) No later than September 1, 2019, the department of
12 corrections and the department of children, youth, and families shall
13 establish, through a memorandum of understanding, a multidisciplinary
14 interagency team to conduct a case-by-case review of the transfer of
15 persons from the department of corrections to the department of
16 children, youth, and families pursuant to subsection (2) of this
17 section. The multidisciplinary interagency team must include a
18 minimum of three representatives from the department of corrections
19 and three representatives from the department of children, youth, and
20 families, and must provide the person whose transfer is being
21 considered an opportunity to consent to the transfer. In considering
22 whether a transfer to the department of children, youth, and families
23 is appropriate, the multidisciplinary interagency team may consider
24 any relevant factors including, but not limited to:

25 (i) The safety and security of the person, staff, and other
26 persons in the custody of the department of children, youth, and
27 families;

28 (ii) The person's behavior and assessed risks and needs;

29 (iii) Whether the department of children, youth, and families or
30 the department of corrections' programs are better equipped to
31 facilitate successful rehabilitation and reentry into the community;
32 and

33 (iv) Any statements regarding the transfer made by the person
34 whose transfer is being considered.

35 (b) After reviewing each proposed transfer, the multidisciplinary
36 interagency team shall make a recommendation regarding the transfer
37 to the secretaries of the department of children, youth, and families
38 and the department of corrections. This recommendation must be
39 provided to the secretaries of each department by January 1, 2020.

1 (c) The secretaries of the department of children, youth, and
2 families and the department of corrections, or their designees, shall
3 approve or deny the transfer within thirty days of receiving the
4 recommendation of the multidisciplinary interagency team, and by no
5 later than February 1, 2020.

6 (4) This section expires July 1, 2021.

7 **Sec. 5.** 2018 c 162 s 9 (uncodified) is amended to read as
8 follows:

9 (1) The Washington state institute for public policy must:

10 (a) Assess the impact of ((this act)) chapter 162, Laws of 2018,
11 and sections 2 through 6, chapter . . . , Laws of 2019 (sections 2
12 through 6 of this act) on community safety, racial
13 disproportionality, recidivism, state expenditures, and youth
14 rehabilitation, to the extent possible((τ)); and

15 (b) Conduct a cost-benefit analysis, including health impacts and
16 recidivism effects, of extending RCW 72.01.410 to include all
17 offenses committed under the age of twenty-one.

18 (2) The institute shall submit, in compliance with RCW 43.01.036,
19 a preliminary report on the requirements listed in subsection (1) of
20 this section to the governor and the appropriate committees of the
21 legislature by December 1, 2023, and a final report to the governor
22 and the appropriate committees of the legislature by December 1,
23 2031.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 72.01
25 RCW to read as follows:

26 (1) A person in the custody of the department of children, youth,
27 and families under RCW 72.01.410 who has an earned release date that
28 is after the person's twenty-fifth birthday but on or before the
29 person's twenty-sixth birthday may, after turning twenty-five, serve
30 the remainder of the person's term of confinement in partial
31 confinement on electronic home monitoring under the authority and
32 supervision of the department of children, youth, and families,
33 provided that the department of children, youth, and families
34 determines that such placement and retention by the department of
35 children, youth, and families is in the best interests of the person
36 and the community. The department of children, youth, and families
37 retains the authority to transfer the person to the custody of the
38 department of corrections under RCW 72.01.410.

1 (2) A person placed on electronic home monitoring under this
2 section must otherwise continue to be subject to similar treatment,
3 options, access to programs and resources, conditions, and
4 restrictions applicable to other similarly situated persons under the
5 jurisdiction of the department of children, youth, and families. If
6 the person has a sentence that includes a term of community custody,
7 this term of community custody must begin after the current term of
8 confinement has ended.

9 (3) If a person placed on electronic home monitoring under this
10 section commits a violation requiring the return of the person to
11 total confinement, the person must be transferred to the custody and
12 supervision of the department of corrections for the remainder of the
13 sentence.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.216
15 RCW to read as follows:

16 (1) The department shall meet regularly with the school districts
17 that educate students who are in the custody of medium and maximum
18 security facilities operated by juvenile rehabilitation to help
19 coordinate activities in areas of common interest, such as
20 communication with parents. The office of the superintendent of
21 public instruction shall facilitate upon request of the department.

22 (2) The office of the superintendent of public instruction, in
23 collaboration with the department, shall create a comprehensive plan
24 for the education of students in juvenile rehabilitation and provide
25 it to the governor and relevant committees of the legislature by
26 September 1, 2020.

27 **Sec. 8.** RCW 13.40.0357 and 2018 c 162 s 3 are each amended to
28 read as follows:

29 **DESCRIPTION AND OFFENSE CATEGORY**

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

35 **Arson and Malicious Mischief**

36	A	Arson 1 (9A.48.020)	B+
37	B	Arson 2 (9A.48.030)	C

1	C	Reckless Burning 1 (9A.48.040)	D
2	D	Reckless Burning 2 (9A.48.050)	E
3	B	Malicious Mischief 1 (9A.48.070)	C
4	C	Malicious Mischief 2 (9A.48.080)	D
5	D	Malicious Mischief 3 (9A.48.090)	E
6	E	Tampering with Fire Alarm Apparatus	E
7		(9.40.100)	
8	E	Tampering with Fire Alarm Apparatus	E
9		with Intent to Commit Arson (9.40.105)	
10	A	Possession of Incendiary Device	B+
11		(9.40.120)	
12		Assault and Other Crimes Involving	
13		Physical Harm	
14	A	Assault 1 (9A.36.011)	B+
15	B+	Assault 2 (9A.36.021)	C+
16	C+	Assault 3 (9A.36.031)	D+
17	D+	Assault 4 (9A.36.041)	E
18	B+	Drive-By Shooting (9A.36.045)	C+
19		committed at age 15 or under	
20	A++	Drive-By Shooting (9A.36.045)	((A+))
21		committed at age 16 or 17	<u>A</u>
22	D+	Reckless Endangerment (9A.36.050)	E
23	C+	Promoting Suicide Attempt (9A.36.060)	D+
24	D+	Coercion (9A.36.070)	E
25	C+	Custodial Assault (9A.36.100)	D+
26		Burglary and Trespass	
27	B+	Burglary 1 (9A.52.020) committed at	C+
28		age 15 or under	
29	A-	Burglary 1 (9A.52.020) committed at	B+
30		age 16 or 17	
31	B	Residential Burglary (9A.52.025)	C
32	B	Burglary 2 (9A.52.030)	C
33	D	Burglary Tools (Possession of)	E
34		(9A.52.060)	
35	D	Criminal Trespass 1 (9A.52.070)	E
36	E	Criminal Trespass 2 (9A.52.080)	E

1	C	Mineral Trespass (78.44.330)	C
2	C	Vehicle Prowling 1 (9A.52.095)	D
3	D	Vehicle Prowling 2 (9A.52.100)	E
4		Drugs	
5	E	Possession/Consumption of Alcohol	E
6		(66.44.270)	
7	C	Illegally Obtaining Legend Drug	D
8		(69.41.020)	
9	C+	Sale, Delivery, Possession of Legend	D+
10		Drug with Intent to Sell (69.41.030(2)(a))	
11	E	Possession of Legend	E
12		Drug (69.41.030(2)(b))	
13	B+	Violation of Uniform Controlled	B+
14		Substances Act - Narcotic,	
15		Methamphetamine, or Flunitrazepam	
16		Sale (69.50.401(2) (a) or (b))	
17	C	Violation of Uniform Controlled	C
18		Substances Act - Nonnarcotic Sale	
19		(69.50.401(2)(c))	
20	E	Possession of Marihuana <40 grams	E
21		(69.50.4014)	
22	C	Fraudulently Obtaining Controlled	C
23		Substance (69.50.403)	
24	C+	Sale of Controlled Substance for Profit	C+
25		(69.50.410)	
26	E	Unlawful Inhalation (9.47A.020)	E
27	B	Violation of Uniform Controlled	B
28		Substances Act - Narcotic,	
29		Methamphetamine, or Flunitrazepam	
30		Counterfeit Substances (69.50.4011(2)	
31		(a) or (b))	
32	C	Violation of Uniform Controlled	C
33		Substances Act - Nonnarcotic Counterfeit	
34		Substances (69.50.4011(2) (c), (d), or (e))	
35	C	Violation of Uniform Controlled	C
36		Substances Act - Possession of a	
37		Controlled Substance (69.50.4013)	

1	C	Violation of Uniform Controlled	C
2		Substances Act - Possession of a	
3		Controlled Substance (69.50.4012)	
4		Firearms and Weapons	
5	B	Theft of Firearm (9A.56.300)	C
6	B	Possession of Stolen Firearm	C
7		(9A.56.310)	
8	E	Carrying Loaded Pistol Without Permit	E
9		(9.41.050)	
10	C	Possession of Firearms by Minor (<18)	C
11		(9.41.040(2)(a) ((iv)) (v))	
12	D+	Possession of Dangerous Weapon	E
13		(9.41.250)	
14	D	Intimidating Another Person by use of	E
15		Weapon (9.41.270)	
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 (9A.40.040)	D+
26		Obstructing Governmental Operation	
27	D	Obstructing a Law Enforcement Officer	E
28		(9A.76.020)	
29	E	Resisting Arrest (9A.76.040)	E
30	B	Introducing Contraband 1 (9A.76.140)	C
31	C	Introducing Contraband 2 (9A.76.150)	D
32	E	Introducing Contraband 3 (9A.76.160)	E
33	B+	Intimidating a Public Servant	C+
34		(9A.76.180)	
35	B+	Intimidating a Witness (9A.72.110)	C+
36		Public Disturbance	

1	C+	Criminal Mischief with Weapon	D+
2		(9A.84.010(2)(b))	
3	D+	Criminal Mischief Without Weapon	E
4		(9A.84.010(2)(a))	
5	E	Failure to Disperse (9A.84.020)	E
6	E	Disorderly Conduct (9A.84.030)	E
7		Sex Crimes	
8	A	Rape 1 (9A.44.040)	B+
9	B++	Rape 2 (9A.44.050) committed at age 14	B+
10		or under	
11	A-	Rape 2 (9A.44.050) committed at age 15	B+
12		through age 17	
13	C+	Rape 3 (9A.44.060)	D+
14	B++	Rape of a Child 1 (9A.44.073)	B+
15		committed at age 14 or under	
16	A-	Rape of a Child 1 (9A.44.073)	B+
17		committed at age 15	
18	B+	Rape of a Child 2 (9A.44.076)	C+
19	B	Incest 1 (9A.64.020(1))	C
20	C	Incest 2 (9A.64.020(2))	D
21	D+	Indecent Exposure (Victim <14)	E
22		(9A.88.010)	
23	E	Indecent Exposure (Victim 14 or over)	E
24		(9A.88.010)	
25	B+	Promoting Prostitution 1 (9A.88.070)	C+
26	C+	Promoting Prostitution 2 (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)	B+
30		committed at age 14 or under	
31	A-	Child Molestation 1 (9A.44.083)	B+
32		committed at age 15 through age 17	
33	B	Child Molestation 2 (9A.44.086)	C+
34	C	Failure to Register as a Sex Offender	D
35		(9A.44.132)	
36		Theft, Robbery, Extortion, and	
37		Forgery	

1	B	Theft 1 (9A.56.030)	C
2	C	Theft 2 (9A.56.040)	D
3	D	Theft 3 (9A.56.050)	E
4	B	Theft of Livestock 1 and 2 (9A.56.080	C
5		and 9A.56.083)	
6	C	Forgery (9A.60.020)	D
7	A	Robbery 1 (9A.56.200) committed at	B+
8		age 15 or under	
9	A++	Robbery 1 (9A.56.200) committed at	((A+))
10		age 16 or 17	<u>A</u>
11	B+	Robbery 2 (9A.56.210)	C+
12	B+	Extortion 1 (9A.56.120)	C+
13	C+	Extortion 2 (9A.56.130)	D+
14	C	Identity Theft 1 (9.35.020(2))	D
15	D	Identity Theft 2 (9.35.020(3))	E
16	D	Improperly Obtaining Financial	E
17		Information (9.35.010)	
18	B	Possession of a Stolen Vehicle	C
19		(9A.56.068)	
20	B	Possession of Stolen Property 1	C
21		(9A.56.150)	
22	C	Possession of Stolen Property 2	D
23		(9A.56.160)	
24	D	Possession of Stolen Property 3	E
25		(9A.56.170)	
26	B	Taking Motor Vehicle Without	C
27		Permission 1 (9A.56.070)	
28	C	Taking Motor Vehicle Without	D
29		Permission 2 (9A.56.075)	
30	B	Theft of a Motor Vehicle (9A.56.065)	C
31		Motor Vehicle Related Crimes	
32	E	Driving Without a License (46.20.005)	E
33	B+	Hit and Run - Death (46.52.020(4)(a))	C+
34	C	Hit and Run - Injury (46.52.020(4)(b))	D
35	D	Hit and Run-Attended (46.52.020(5))	E
36	E	Hit and Run-Unattended (46.52.010)	E

1	C	Vehicular Assault (46.61.522)	D
2	C	Attempting to Elude Pursuing Police	D
3		Vehicle (46.61.024)	
4	E	Reckless Driving (46.61.500)	E
5	D	Driving While Under the Influence	E
6		(46.61.502 and 46.61.504)	
7	B+	Felony Driving While Under the	B
8		Influence (46.61.502(6))	
9	B+	Felony Physical Control of a Vehicle	B
10		While Under the Influence (46.61.504(6))	
11		Other	
12	B	Animal Cruelty 1 (16.52.205)	C
13	B	Bomb Threat (9.61.160)	C
14	C	Escape 1 ¹ (9A.76.110)	C
15	C	Escape 2 ¹ (9A.76.120)	C
16	D	Escape 3 (9A.76.130)	E
17	E	Obscene, Harassing, Etc., Phone Calls	E
18		(9.61.230)	
19	A	Other Offense Equivalent to an Adult	B+
20		Class A Felony	
21	B	Other Offense Equivalent to an Adult	C
22		Class B Felony	
23	C	Other Offense Equivalent to an Adult	D
24		Class C Felony	
25	D	Other Offense Equivalent to an Adult	E
26		Gross Misdemeanor	
27	E	Other Offense Equivalent to an Adult	E
28		Misdemeanor	
29	V	Violation of Order of Restitution,	V
30		Community Supervision, or Confinement	
31		(13.40.200) ²	

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

34 1st escape or attempted escape during 12-month period - 28 days
35 confinement

1 2nd escape or attempted escape during 12-month period - 8 weeks
2 confinement

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

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

7 **JUVENILE SENTENCING STANDARDS**

8 This schedule must be used for juvenile offenders. The court may
9 select sentencing option A, B, C, or D.

10 **OPTION A**
11 **JUVENILE OFFENDER SENTENCING GRID**
12 **STANDARD RANGE**

13	A++	129 to 260 weeks for all category A++ offenses					
14	A+	180 weeks to age 21 for all category A+ offenses					
15	A	103-129 weeks for all category A offenses					
16	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
17	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
18	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
19	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
20	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
21		C	LS	LS	LS	LS	15-36 weeks
22		D+	LS	LS	LS	LS	LS
23		D	LS	LS	LS	LS	LS
24		E	LS	LS	LS	LS	LS
25	PRIOR		0	1	2	3	4 or more
26	ADJUDICATIONS						

27 NOTE: References in the grid to days or weeks mean periods of
28 confinement. "LS" means "local sanctions" as defined in RCW
29 13.40.020.

30 (1) The vertical axis of the grid is the current offense
31 category. The current offense category is determined by the offense
32 of adjudication.

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

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

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

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

14 **OR**

15 **OPTION B**

16 **SUSPENDED DISPOSITION ALTERNATIVE**

17 (1) If the offender is subject to a standard range disposition
18 involving confinement by the department, the court may impose the
19 standard range and suspend the disposition on condition that the
20 offender comply with one or more local sanctions and any educational
21 or treatment requirement. The treatment programs provided to the
22 offender must be either research-based best practice programs as
23 identified by the Washington state institute for public policy or the
24 joint legislative audit and review committee, or for chemical
25 dependency treatment programs or services, they must be evidence-
26 based or research-based best practice programs. For the purposes of
27 this subsection:

28 (a) "Evidence-based" means a program or practice that has had
29 multiple site random controlled trials across heterogeneous
30 populations demonstrating that the program or practice is effective
31 for the population; and

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

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

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

3 (a) Is adjudicated of an A+ or A++ offense;

4 (b) Is fourteen years of age or older and is adjudicated of one
5 or more of the following offenses:

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

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

9 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
10 the first degree (RCW 9A.56.120), kidnapping in the second degree
11 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular
12 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or
13 manslaughter 2 (RCW 9A.32.070); or

14 (iv) Violation of the uniform controlled substances act (RCW
15 69.50.401(2) (a) and (b)), when the offense includes infliction of
16 bodily harm upon another or when during the commission or immediate
17 withdrawal from the offense the respondent was armed with a deadly
18 weapon;

19 (c) Is ordered to serve a disposition for a firearm violation
20 under RCW 13.40.193;

21 (d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;
22 or

23 (e) Has a prior option B disposition.

24 **OR**

25 **OPTION C**

26 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

27 If the juvenile offender is subject to a standard range
28 disposition of local sanctions or 15 to 36 weeks of confinement and
29 has not committed a B++ or B+ offense, the court may impose a
30 disposition under RCW 13.40.160(4) and 13.40.165.

31 **OR**

32 **OPTION D**

33 **MANIFEST INJUSTICE**

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

1 **Sec. 9.** RCW 13.04.030 and 2018 c 162 s 2 are each amended to
2 read as follows:

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

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

8 (b) Relating to children alleged or found to be dependent as
9 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

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

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

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

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

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

22 (iii) The alleged offense or infraction is a traffic, fish,
23 boating, or game offense, or traffic or civil infraction committed by
24 a juvenile sixteen years of age or older and would, if committed by
25 an adult, be tried or heard in a court of limited jurisdiction, in
26 which instance the appropriate court of limited jurisdiction shall
27 have jurisdiction over the alleged offense or infraction, and no
28 guardian ad litem is required in any such proceeding due to the
29 juvenile's age. If such an alleged offense or infraction and an
30 alleged offense or infraction subject to juvenile court jurisdiction
31 arise out of the same event or incident, the juvenile court may have
32 jurisdiction of both matters. The jurisdiction under this subsection
33 does not constitute "transfer" or a "decline" for purposes of RCW
34 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited
35 jurisdiction which confine juveniles for an alleged offense or
36 infraction may place juveniles in juvenile detention facilities under
37 an agreement with the officials responsible for the administration of
38 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

39 (iv) The alleged offense is a traffic or civil infraction, a
40 violation of compulsory school attendance provisions under chapter

1 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
2 has assumed concurrent jurisdiction over those offenses as provided
3 in RCW 13.04.0301; or

4 (v) The juvenile is sixteen or seventeen years old on the date
5 the alleged offense is committed and the alleged offense is:

6 (A) A serious violent offense as defined in RCW 9.94A.030;

7 (B) A violent offense as defined in RCW 9.94A.030 and the
8 juvenile has a criminal history consisting of: One or more prior
9 serious violent offenses; two or more prior violent offenses; or
10 three or more of any combination of the following offenses: Any class
11 A felony, any class B felony, vehicular assault, or manslaughter in
12 the second degree, all of which must have been committed after the
13 juvenile's thirteenth birthday and prosecuted separately; or

14 (C) Rape of a child in the first degree.

15 (I) In such a case the adult criminal court shall have exclusive
16 original jurisdiction, except as provided in (e)(v)(C)(II) and (III)
17 of this subsection.

18 (II) The juvenile court shall have exclusive jurisdiction over
19 the disposition of any remaining charges in any case in which the
20 juvenile is found not guilty in the adult criminal court of the
21 charge or charges for which he or she was transferred, or is
22 convicted in the adult criminal court of ~~((a lesser included))~~ an
23 offense that is not also an offense listed in (e)(v) of this
24 subsection. The juvenile court shall maintain residual juvenile court
25 jurisdiction up to age twenty-five if the juvenile has turned
26 eighteen years of age during the adult criminal court proceedings but
27 only for the purpose of returning a case to juvenile court for
28 disposition pursuant to RCW 13.40.300(3)(d). ~~((However, once the case
29 is returned to juvenile court, the court may hold a decline hearing
30 pursuant to RCW 13.40.110 to determine whether to retain the case in
31 juvenile court for the purpose of disposition or return the case to
32 adult criminal court for sentencing.))~~

33 (III) The prosecutor and respondent may agree to juvenile court
34 jurisdiction and waive application of exclusive adult criminal
35 jurisdiction in (e)(v)(A) through (C) of this subsection and remove
36 the proceeding back to juvenile court with the court's approval.

37 If the juvenile challenges the state's determination of the
38 juvenile's criminal history under (e)(v) of this subsection, the
39 state may establish the offender's criminal history by a
40 preponderance of the evidence. If the criminal history consists of

1 adjudications entered upon a plea of guilty, the state shall not bear
2 a burden of establishing the knowing and voluntariness of the plea;

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

5 (g) Relating to termination of a diversion agreement under RCW
6 13.40.080, including a proceeding in which the divertee has attained
7 eighteen years of age;

8 (h) Relating to court validation of a voluntary consent to an
9 out-of-home placement under chapter 13.34 RCW, by the parent or
10 Indian custodian of an Indian child, except if the parent or Indian
11 custodian and child are residents of or domiciled within the
12 boundaries of a federally recognized Indian reservation over which
13 the tribe exercises exclusive jurisdiction;

14 (i) Relating to petitions to compel disclosure of information
15 filed by the department of social and health services pursuant to RCW
16 74.13.042; and

17 (j) Relating to judicial determinations and permanency planning
18 hearings involving developmentally disabled children who have been
19 placed in out-of-home care pursuant to a voluntary placement
20 agreement between the child's parent, guardian, or legal custodian
21 and the department of social and health services and the department
22 of children, youth, and families.

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

27 (3) The juvenile court shall have concurrent original
28 jurisdiction with the family court over child custody proceedings
29 under chapter 26.10 RCW and parenting plans or residential schedules
30 under chapter((s)) 26.09 ((and ~~26.26~~)), 26.26A, or 26.26B RCW as
31 provided for in RCW 13.34.155.

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

36 **Sec. 10.** RCW 13.40.110 and 2018 c 162 s 4 are each amended to
37 read as follows:

38 (1) Discretionary decline hearing - The prosecutor, respondent,
39 or the court on its own motion may, before a hearing on the

1 information on its merits, file a motion requesting the court to
2 transfer the respondent for adult criminal prosecution and the matter
3 shall be set for a hearing on the question of declining jurisdiction
4 only if:

5 (a) The respondent is, at the time of proceedings, at least
6 fifteen years of age or older and is charged with a serious violent
7 offense as defined in RCW 9.94A.030; (~~or~~)

8 (b) The respondent is, at the time of proceedings, fourteen years
9 of age or younger and is charged with murder in the first degree (RCW
10 9A.32.030), and/or murder in the second degree (RCW 9A.32.050); or

11 (c) The respondent is any age and is charged with custodial
12 assault, RCW 9A.36.100, and, at the time the respondent is charged,
13 is already serving a minimum juvenile sentence to age twenty-one.

14 (2) Mandatory decline hearing - Unless waived by the court, the
15 parties, and their counsel, a decline hearing shall be held when the
16 information alleges an escape by the respondent and the respondent is
17 serving a minimum juvenile sentence to age twenty-one.

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

23 (4) When the respondent is transferred for criminal prosecution
24 or retained for prosecution in juvenile court, the court shall set
25 forth in writing its finding which shall be supported by relevant
26 facts and opinions produced at the hearing.

27 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 2019, in the omnibus appropriations act,
30 sections 1 through 6 of this act are null and void.

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