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**SUBSTITUTE HOUSE BILL 2384**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Corrections (originally sponsored by Representatives Lemmon, Ogden, Morris, Roland, Grant, Hansen, Orr, Quall, Long, Campbell, Finkbeiner, Eide, Karahalios, Linville, Kessler, Johanson, J. Kohl, Patterson, G. Fisher, Foreman, Heavey, Scott, R. Meyers, Brough, Talcott, Van Luven, Sheahan, Fuhrman, Brumsickle, B. Thomas, Cooke, Schmidt, Wood, Forner, Silver, Lisk, Cothorn, Basich, Kremen, Dyer, Dunshee, Backlund, Chandler, Wolfe, Chappell, Conway, Holm, Mastin, Jones, Sheldon, Tate, Mielke, Rayburn, L. Johnson, Springer and McMorris)

Read first time 02/04/94.

1 AN ACT Relating to disposition of juvenile offenders; amending RCW  
2 13.40.030 and 13.40.160; adding a new section to chapter 13.40 RCW;  
3 creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the number of  
6 juvenile offenders and the severity of their crimes is increasing  
7 rapidly state-wide. In addition, many juvenile offenders continue to  
8 reoffend after they are released from the juvenile justice system  
9 causing disproportionately high and expensive rates of recidivism.

10 The legislature further finds that juvenile criminal behavior is  
11 often the result of a lack of self-discipline, the lack of systematic  
12 work habits and ethics, the inability to deal with authority figures,  
13 and an unstable or unstructured living environment. The legislature  
14 further finds that the department of social and health services  
15 currently operates an insufficient number of confinement beds to meet  
16 the rapidly growing juvenile offender population. Together these  
17 factors are combining to produce a serious public safety hazard and the  
18 need to develop more effective and stringent juvenile punishment and  
19 rehabilitation options.

1       The legislature intends that juvenile offenders who enter the state  
2 rehabilitation system have the opportunity and are given the  
3 responsibility to become more effective participants in society by  
4 enhancing their personal development, work ethics, and life skills.  
5 The legislature recognizes that structured incarceration programs for  
6 juvenile offenders such as juvenile offender basic training camps, can  
7 instill the self-discipline, accountability, self-esteem, and work  
8 ethic skills that could discourage many offenders from returning to the  
9 criminal justice system. Juvenile offender basic training camp  
10 incarceration programs generally emphasize life skills training,  
11 prevocational work skills training, anger management, dealing with  
12 difficult at-home family problems and/or abuses, discipline, physical  
13 training, structured and intensive work activities, and educational  
14 classes. The legislature further recognizes that juvenile offenders  
15 can benefit from a highly structured basic training camp environment  
16 and the public can also benefit through increased public protection and  
17 reduced cost due to lowered rates of recidivism.

18       NEW SECTION. **Sec. 2.** A new section is added to chapter 13.40 RCW  
19 to read as follows:

20       (1) The department of social and health services shall establish  
21 and operate a medium security juvenile offender basic training camp  
22 program. The department shall site a juvenile offender basic training  
23 camp facility in the most cost-effective facility possible and shall  
24 review the possibility of using an existing abandoned and/or available  
25 state, federally, or military-owned site or facility.

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

32       (3) The department shall commence operation of the medium security  
33 juvenile offender basic training camp program no later than January 1,  
34 1995.

35       (4) The juvenile offender basic training camp shall accommodate at  
36 least seventy offenders. The beds shall count as additions to, and not  
37 be used as replacements for, existing bed capacity at existing  
38 department of social and health services juvenile facilities.

1 (5) The juvenile offender basic training camp shall be a structured  
2 and regimented model lasting one hundred twenty days emphasizing the  
3 building up of an offender's self-esteem, confidence, and discipline.  
4 The juvenile offender basic training camp program shall provide  
5 participants with basic education, prevocational training, work-based  
6 learning, live work, work ethic skills, conflict resolution counseling,  
7 substance abuse intervention, anger management counseling, and  
8 structured intensive physical training. The juvenile offender basic  
9 training camp program shall have a curriculum training and work  
10 schedule that incorporates a balanced assignment of these or other  
11 rehabilitation and training components for no less than sixteen hours  
12 per day, six days a week.

13 The department shall adopt rules for the safe and effective  
14 operation of the juvenile offender basic training camp program,  
15 standards for an offender's successful program completion, and rules  
16 for the continued after-care supervision of offenders who have  
17 successfully completed the program.

18 (6) Offenders eligible to be committed to the juvenile offender  
19 basic training camp option shall be those with a disposition of at  
20 least fifty-two weeks but not more than seventy-eight weeks. Violent  
21 and sex offenders shall not be committed to the juvenile offender basic  
22 training camp program.

23 (7) All juvenile offenders sentenced to the juvenile offender basic  
24 training camp sentencing option shall spend the first one hundred  
25 twenty days of their sentence in a juvenile offender basic training  
26 camp. If the juvenile offender's activities while in the juvenile  
27 offender basic training camp are so disruptive to the juvenile offender  
28 basic training camp program, as determined by the secretary according  
29 to rules adopted by the department, as to result in the removal of the  
30 juvenile offender from the juvenile offender basic training camp  
31 program, or if the offender cannot complete the juvenile offender basic  
32 training camp program due to medical problems, the secretary shall  
33 require that the offender be committed to a juvenile institution to  
34 serve the entire remainder of his or her sentence, less the amount of  
35 time already served in the juvenile offender basic training camp  
36 program.

37 (8) All offenders who successfully graduate from the one hundred  
38 twenty day juvenile offender basic training camp program shall spend  
39 the remainder of their sentence on parole in a division of juvenile

1 rehabilitation intensive aftercare program in the local community. The  
2 program shall provide for the needs of the offender based on his or her  
3 progress in the aftercare program as indicated by ongoing assessment of  
4 those needs and progress. The intensive aftercare program shall  
5 monitor postprogram juvenile offenders and assist them to successfully  
6 reintegrate into the community. In addition, the program shall develop  
7 a process for closely monitoring and assessing public safety risks.  
8 The intensive aftercare program shall be designed and funded by the  
9 department of social and health services.

10 (9) No juvenile who suffers from any mental or physical problems  
11 that could endanger his or her health or drastically affect his or her  
12 performance in the program shall be admitted to or retained in the  
13 juvenile offender basic training camp program.

14 (10) The department shall also develop and maintain a database to  
15 measure recidivism rates specific to this incarceration program. The  
16 data base shall maintain data on all juvenile offenders sentenced to a  
17 juvenile offender basic training camp for a period of two years after  
18 they have completed the program. The data base shall also maintain  
19 data on the criminal activity, educational progress, and employment  
20 activities of all juvenile offenders who participated in the program.  
21 The department shall produce an outcome evaluation report on the  
22 progress of the juvenile offender basic training camp program to the  
23 appropriate committees of the legislature no later than December 12,  
24 1996.

25 **Sec. 3.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read  
26 as follows:

27 (1)(a) The juvenile disposition standards commission shall  
28 recommend to the legislature no later than November 1st of each year  
29 disposition standards for all offenses. The standards shall establish,  
30 in accordance with the purposes of this chapter, ranges which may  
31 include terms of confinement, including the juvenile offender basic  
32 training camp program established in section 2 of this act, and/or  
33 community supervision established on the basis of a youth's age, the  
34 instant offense, and the history and seriousness of previous offenses,  
35 but in no case may the period of confinement and supervision exceed  
36 that to which an adult may be subjected for the same offense(s).  
37 Standards recommended for offenders listed in RCW 13.40.020(1) shall  
38 include a range of confinement which may not be less than thirty days.

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

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

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

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

35 (b) Where the maximum term in the range is greater than ninety days  
36 but not greater than one year, the minimum term in the range may be no  
37 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.

4 **Sec. 4.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to read  
5 as follows:

6 (1) When the respondent is found to be a serious offender, the  
7 court shall commit the offender to the department for the standard  
8 range of disposition for the offense, as indicated in option A of  
9 schedule D-3, RCW 13.40.0357 except as provided in subsection (5) of  
10 this section or section 2 of this act.

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

17 A disposition outside the standard range shall be determinate and  
18 shall be comprised of confinement or community supervision, or a  
19 combination thereof. When a judge finds a manifest injustice and  
20 imposes a sentence of confinement exceeding thirty days, the court  
21 shall sentence the juvenile to a maximum term, and the provisions of  
22 RCW 13.40.030(2), as now or hereafter amended, shall be used to  
23 determine the range. A disposition outside the standard range is  
24 appealable under RCW 13.40.230, as now or hereafter amended, by the  
25 state or the respondent. A disposition within the standard range is  
26 not appealable under RCW 13.40.230 as now or hereafter amended.

27 (2) Where the respondent is found to be a minor or first offender,  
28 the court shall order that the respondent serve a term of community  
29 supervision as indicated in option A or option B of schedule D-1, RCW  
30 13.40.0357 except as provided in subsection (5) of this section. If  
31 the court determines that a disposition of community supervision would  
32 effectuate a manifest injustice the court may impose another  
33 disposition under option C of schedule D-1, RCW 13.40.0357. Except as  
34 provided in subsection (5) of this section, a disposition other than a  
35 community supervision may be imposed only after the court enters  
36 reasons upon which it bases its conclusions that imposition of  
37 community supervision would effectuate a manifest injustice. When a  
38 judge finds a manifest injustice and imposes a sentence of confinement

1 exceeding thirty days, the court shall sentence the juvenile to a  
2 maximum term, and the provisions of RCW 13.40.030(2), as now or  
3 hereafter amended, shall be used to determine the range. The court's  
4 finding of manifest injustice shall be supported by clear and  
5 convincing evidence.

6 Except for disposition of community supervision or a disposition  
7 imposed pursuant to subsection (5) of this section, a disposition may  
8 be appealed as provided in RCW 13.40.230, as now or hereafter amended,  
9 by the state or the respondent. A disposition of community supervision  
10 or a disposition imposed pursuant to subsection (5) of this section may  
11 not be appealed under RCW 13.40.230 as now or hereafter amended.

12 (3) Where a respondent is found to have committed an offense for  
13 which the respondent declined to enter into a diversion agreement, the  
14 court shall impose a term of community supervision limited to the  
15 conditions allowed in a diversion agreement as provided in RCW  
16 13.40.080(2) as now or hereafter amended.

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

18 (a) The court shall impose a determinate disposition within the  
19 standard range(s) for such offense, as indicated in option A of  
20 schedule D-2, RCW 13.40.0357 except as provided in subsection (5) of  
21 this section or section 2 of this act: PROVIDED, That if the standard  
22 range includes a term of confinement exceeding thirty days, commitment  
23 shall be to the department for the standard range of confinement; or

24 (b) The court shall impose a determinate disposition of community  
25 supervision and/or up to thirty days confinement, as indicated in  
26 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement  
27 has been imposed, the court shall state either aggravating or  
28 mitigating factors as set forth in RCW 13.40.150 as now or hereafter  
29 amended.

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

37 (d) A disposition pursuant to subsection (4)(c) of this section is  
38 appealable under RCW 13.40.230, as now or hereafter amended, by the  
39 state or the respondent. A disposition pursuant to subsection (4) (a)

1 or (b) of this section is not appealable under RCW 13.40.230 as now or  
2 hereafter amended.

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

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

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

20 (a)(i) Frequency and type of contact between the offender and  
21 therapist;

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

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

27 (iv) Anticipated length of treatment; and

28 (v) Recommended crime-related prohibitions.

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

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



1 special sex offender disposition alternative is appropriate, then the  
2 court shall impose a determinate disposition within the standard range  
3 for the offense, and the court may suspend the execution of the  
4 disposition and place the offender on community supervision for up to  
5 two years. As a condition of the suspended disposition, the court may  
6 impose the conditions of community supervision and other conditions,  
7 including up to thirty days of confinement and requirements that the  
8 offender do any one or more of the following:

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

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

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

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

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

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

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

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

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

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

16 If the offender violates any condition of the disposition or the  
17 court finds that the respondent is failing to make satisfactory  
18 progress in treatment, the court may revoke the suspension and order  
19 execution of the sentence. The court shall give credit for any  
20 confinement time previously served if that confinement was for the  
21 offense for which the suspension is being revoked.

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

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

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

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

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