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HOUSE BILL 2747

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State of Washington

53rd Legislature

1994 Regular Session

By Representatives Conway, Lemmon, Morris, Long, Campbell, Forner, Van Luven, Talcott, Brough, Holm, Roland, Shin, Johanson, Pruitt, Rayburn, Moak, Valle, Jones, L. Johnson, Karahalios, Springer, Ogden and Quall

Read first time 01/21/94. Referred to Committee on Corrections.

1 AN ACT Relating to juveniles; amending RCW 13.40.020, 13.40.025,  
2 13.40.027, 13.40.030, 13.40.070, 13.40.150, 13.40.160, 13.40.180,  
3 13.40.205, 13.40.210, 13.40.230, 13.50.010, and 72.09.300; adding new  
4 sections to chapter 13.40 RCW; creating new sections; repealing RCW  
5 13.40.0354 and 13.40.0357; prescribing penalties; and providing an  
6 effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the juvenile  
9 justice act of 1977, chapter 13.40 RCW, requires substantial revision.  
10 The legislature reaffirms the goals of the act, including the dual  
11 goals of punishment and rehabilitation of juvenile offenders. The  
12 legislature finds, however, that the substantive provisions of the act  
13 are too structured to achieve fully the act's goals.

14 The framework created by the act has diminishing relevance to  
15 today's violent and persistent offenders. Juveniles are committing  
16 increasingly violent crimes, and they are committing these violent  
17 crimes at an increasingly younger age. Simultaneously, juveniles  
18 habitually commit minor offenses. Dispositions prescribed by the act  
19 are not long enough to permit substantial rehabilitation of violent

1 offenders, and minor offenders receive no meaningful intervention. The  
2 fixed system established by the act restricts the judiciary's efforts  
3 to tailor punishment and rehabilitation to the juvenile's individual  
4 needs. Additionally, substantial delays occur before the juvenile  
5 offender is held accountable for criminal acts.

6 Juvenile offenders must learn personal accountability and must  
7 accept responsibility for their criminal behavior. To this end, the  
8 juvenile system must provide a swift response, meaningful punishment,  
9 and effective rehabilitation. Therefore, this act seeks to accomplish  
10 the following goals: (1) Increasing the speed of the juvenile justice  
11 system's response to juvenile offenders' criminal behavior; (2)  
12 increasing the certainty of punishment and intervention; (3) increasing  
13 judicial discretion and permitting judges to tailor dispositions to the  
14 juvenile's offense; (4) expanding the range of disposition alternatives  
15 to permit meaningful punishment and effective rehabilitation; (5)  
16 increasing the likelihood that juveniles will comply with the terms of  
17 their dispositions by creating compliance incentives and, if necessary,  
18 placing the juveniles in supportive out-of-home placements; and (6)  
19 reducing the complexity of the system.

20 NEW SECTION. **Sec. 2.** The association of superior court judges  
21 shall be December 1, 1994, recommend to the legislature standards to  
22 guide the court's discretion at significant stages of the juvenile  
23 justice process. The recommendation should include standards to guide:

- 24 (1) The decision to defer adjudication;  
25 (2) The decision to suspend a sentence;  
26 (3) The setting of rehabilitative goals in disposition order that  
27 includes commitment to the department of social and health services;  
28 (4) The determination that a juvenile has or has not met the  
29 rehabilitative goals during the term of commitment to the department of  
30 social and health services; and  
31 (5) The decision to set a date for a juvenile's release from the  
32 department of social and health services' custody.

33 **Sec. 3.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read  
34 as follows:

35 For the purposes of this chapter:

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

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

5       ~~(b) Manslaughter in the first degree; or~~

6       ~~(c) Assault in the second degree, extortion in the first degree,~~  
7 ~~child molestation in the second degree, kidnapping in the second~~  
8 ~~degree, robbery in the second degree, residential burglary, or burglary~~  
9 ~~in the second degree, where such offenses include the infliction of~~  
10 ~~bodily harm upon another or where during the commission of or immediate~~  
11 ~~withdrawal from such an offense the perpetrator is armed with a deadly~~  
12 ~~weapon or firearm as defined in RCW 9A.04.110;~~

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

18       ~~((3))~~ (2) "Community supervision" means an order of disposition  
19 by the court of an adjudicated youth not committed to the department.  
20 A community supervision order for a single offense may be for a period  
21 of up to two years for a sex offense as defined by RCW 9.94A.030 and up  
22 to one year for other offenses. Community supervision is an  
23 individualized program comprised of one or more of the following:

24       (a) Community-based sanctions;

25       (b) Community-based rehabilitation;

26       (c) Monitoring and reporting requirements;

27       ~~((4))~~ (3) Community-based sanctions may include one or more of  
28 the following:

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

30       (b) Community service not to exceed one hundred fifty hours of  
31 service;

32       ~~((5))~~ (4) "Community-based rehabilitation" means one or more of  
33 the following: Attendance of information classes; counseling,  
34 outpatient substance abuse treatment programs, outpatient mental health  
35 programs, anger management classes, or other services; placement in a  
36 group home or foster care; or attendance at school or other educational  
37 programs appropriate for the juvenile as determined by the school  
38 district. Placement in community-based rehabilitation programs is  
39 subject to available funds;

1        ~~((+6))~~ (5) "Monitoring and reporting requirements" means one or  
2 more of the following: Curfews; requirements to remain at home,  
3 school, work, or court-ordered treatment programs during specified  
4 hours; restrictions from leaving or entering specified geographical  
5 areas; requirements to report to the probation officer as directed and  
6 to remain under the probation officer's supervision; and other  
7 conditions or limitations as the court may require which may not  
8 include confinement;

9        ~~((+7))~~ (6) "Confinement" means physical custody by the department  
10 of social and health services in a facility operated by or pursuant to  
11 a contract with the state, or physical custody in a detention facility  
12 operated by or pursuant to a contract with any county. The county may  
13 operate or contract with vendors to operate county detention  
14 facilities. The department may operate or contract to operate  
15 detention facilities for juveniles committed to the department.  
16 Pretrial confinement or confinement of less than thirty-one days  
17 imposed as part of a disposition or modification order may be served  
18 consecutively or intermittently, in the discretion of the court and may  
19 be served in a detention group home, detention foster home, or with  
20 electronic monitoring. Detention group homes and detention foster  
21 homes used for confinement shall not also be used for the placement of  
22 dependent children. Confinement in detention group homes and detention  
23 foster homes and electronic monitoring are subject to available funds;

24        ~~((+8))~~ (7) "Court", when used without further qualification, means  
25 the juvenile court judge(s) or commissioner(s);

26        ~~((+9))~~ (8) "Criminal history" includes all criminal complaints  
27 against the respondent for which, prior to the commission of a current  
28 offense(~~(a)~~), the allegations were found correct by a court(~~(. If~~  
29 ~~a respondent is convicted of two or more charges arising out of the~~  
30 ~~same course of conduct, only the highest charge from among these shall~~  
31 ~~count as an offense for the purposes of this chapter)~~); or ~~((b))~~ the  
32 criminal complaint was diverted by a prosecutor pursuant to the  
33 provisions of this chapter on agreement of the respondent and after an  
34 advisement to the respondent that the criminal complaint would be  
35 considered as part of the respondent's criminal history;

36        ~~((+10))~~ (9) "Department" means the department of social and health  
37 services;

38        ~~((+11))~~ (10) "Detention facility" means a county facility for the  
39 physical confinement of a juvenile alleged to have committed an offense

1 or an adjudicated offender subject to a disposition or modification  
2 order;

3 ~~((12))~~ (11) "Diversion unit" means any probation counselor who  
4 enters into a diversion agreement with an alleged youthful offender, or  
5 any other person or entity except a law enforcement official or entity,  
6 with whom the juvenile court administrator has contracted to arrange  
7 and supervise such agreements pursuant to RCW 13.40.080, or any person  
8 or entity specially funded by the legislature to arrange and supervise  
9 diversion agreements in accordance with the requirements of this  
10 chapter;

11 ~~((13))~~ (12) "Institution" means a juvenile facility established  
12 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

13 ~~((14))~~ (13) "Juvenile," "youth," and "child" mean any individual  
14 who is under the chronological age of eighteen years and who has not  
15 been previously transferred to adult court;

16 ~~((15))~~ (14) "Juvenile offender" means any juvenile who has been  
17 found by the juvenile court to have committed an offense, including a  
18 person eighteen years of age or older over whom jurisdiction has been  
19 extended under RCW 13.40.300;

20 ~~((16))~~ (15) "Manifest injustice" means a disposition that would  
21 either impose an excessive penalty on the juvenile or would impose a  
22 serious, and clear danger to society in light of the purposes of this  
23 chapter;

24 ~~((17))~~ "Middle offender" means a person who has committed an  
25 offense and who is neither a minor or first offender nor a serious  
26 offender;

27 ~~(18)~~ "Minor or first offender" means a person sixteen years of age  
28 or younger whose current offense(s) and criminal history fall entirely  
29 within one of the following categories:

30 ~~(a) Four misdemeanors;~~

31 ~~(b) Two misdemeanors and one gross misdemeanor;~~

32 ~~(c) One misdemeanor and two gross misdemeanors;~~

33 ~~(d) Three gross misdemeanors;~~

34 ~~(e) One class C felony except manslaughter in the second degree and  
35 one misdemeanor or gross misdemeanor;~~

36 ~~(f) One class B felony except: Any felony which constitutes an  
37 attempt to commit a class A felony; manslaughter in the first degree;  
38 assault in the second degree; extortion in the first degree; indecent  
39 liberties; kidnapping in the second degree; robbery in the second~~

1 degree; burglary in the second degree; residential burglary; vehicular  
2 homicide; or arson in the second degree.

3 For purposes of this definition, current violations shall be  
4 counted as misdemeanors;

5 ~~((19))~~ (16) "Offense" means an act designated a violation or a  
6 crime if committed by an adult under the law of this state, under any  
7 ordinance of any city or county of this state, under any federal law,  
8 or under the law of another state if the act occurred in that state;

9 ~~((20))~~ (17) "Placement out of the home" means placement for  
10 twenty-four hour residential care in foster or group care, or with a  
11 legally authorized custodian. Placement out of the home in county or  
12 state-funded placements is subject to available funds and beds;

13 (18) "Respondent" means a juvenile who is alleged or proven to have  
14 committed an offense;

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

25 ~~((22))~~ (20) "Secretary" means the secretary of the department of  
26 social and health services;

27 ~~((23))~~ (21) "Services" mean services which provide alternatives  
28 to incarceration for those juveniles who have pleaded or been  
29 adjudicated guilty of an offense or have signed a diversion agreement  
30 pursuant to this chapter;

31 ~~((24))~~ (22) "Sex offense" means an offense defined as a sex  
32 offense in RCW 9.94A.030;

33 ~~((25))~~ (23) "Sexual motivation" means that one of the purposes  
34 for which the respondent committed the offense was for the purpose of  
35 his or her sexual gratification;

36 ~~((26))~~ (24) "Foster care" means temporary physical care in a  
37 foster family home or group care facility as defined in RCW 74.15.020  
38 and licensed by the department, or other legally authorized care;

1       (~~(27)~~) (25) "Violation" means an act or omission, which if  
2 committed by an adult, must be proven beyond a reasonable doubt, and is  
3 punishable by sanctions which do not include incarceration;

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

6       **Sec. 4.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read  
7 as follows:

8       (1) There is established a juvenile disposition standards  
9 commission to propose disposition standards to the legislature in  
10 accordance with RCW 13.40.030 and perform the other responsibilities  
11 set forth in this chapter.

12       (2) The commission shall be composed of the secretary or the  
13 secretary's designee and the following (~~(nine)~~) members appointed by  
14 the governor, subject to confirmation by the senate: (a) (~~(A)~~) Two  
15 superior court judges; (b) (~~(a)~~) two prosecuting (~~(attorney)~~) or deputy  
16 prosecuting attorneys; (c) a law enforcement officer; (d) an  
17 administrator of juvenile court services; (e) (~~(a)~~) two public  
18 defenders actively practicing in juvenile court; (f) a county  
19 legislative official or county executive; (~~(and)~~) (g) three other  
20 persons who have demonstrated significant interest in the adjudication  
21 and disposition of juvenile offenders; and (h) one member from each of  
22 the two largest caucuses of both the senate and the house of  
23 representatives, who shall be nonvoting members. In making the  
24 appointments, the governor shall seek the recommendations of the  
25 association of superior court judges in respect to the members who (~~(is~~  
26 ~~a))~~ are superior court judges; of Washington prosecutors in respect to  
27 the prosecuting (~~(attorney)~~) or deputy prosecuting attorney members; of  
28 the Washington association of sheriffs and police chiefs in respect to  
29 the member who is a law enforcement officer; of juvenile court  
30 administrators in respect to the member who is a juvenile court  
31 administrator; and of the state bar association in respect to the  
32 public defender member; and of the Washington association of counties  
33 in respect to the member who is either a county legislative official or  
34 county executive.

35       (3) The (~~(secretary or the secretary's designee)~~) governor shall  
36 (~~(serve as chairman)~~) designate the chair of the commission.

37       (4) The secretary shall serve on the commission during the  
38 secretary's tenure as secretary of the department. The term of the

1 remaining members of the commission shall be three years. The initial  
2 terms shall be determined by lot conducted at the commission's first  
3 meeting as follows: (a) Four members shall serve (~~(a two-year)~~) one-  
4 year terms; (~~and~~) (b) four members shall serve (~~(a three-year)~~) two-  
5 year term; and (c) six members shall serve three-year terms. In the  
6 event of a vacancy, the appointing authority shall designate a new  
7 member to complete the remainder of the unexpired term.

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

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

12 **Sec. 5.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read  
13 as follows:

14 (1) It is the responsibility of the commission to:

15 (a)(i) Evaluate the effectiveness of existing disposition standards  
16 and related statutes in implementing policies set forth in RCW  
17 13.40.010 generally(~~(7)~~);

18 (ii) (~~(specifically)~~) Review (~~(the guidelines relating to the~~  
19 ~~confinement of minor and first offenders as well as)~~) the use of  
20 diversion, (~~and~~) deferred adjudications, and suspended confinement or  
21 commitment;

22 (iii) Review the application of current and proposed juvenile  
23 sentencing standards and guidelines for potential adverse impacts on  
24 the sentencing outcomes of racial and ethnic minority youth; and

25 (iv) Evaluate the effectiveness of existing disposition standards  
26 in light of juvenile offenders' rehabilitative needs;

27 (b) Solicit the comments and suggestions of the juvenile justice  
28 community, including juvenile justice advisory committees of local law  
29 and justice councils, concerning disposition standards, effectiveness,  
30 and proportionality; (~~and~~)

31 (c) Make recommendations to the legislature regarding revisions or  
32 modifications of the disposition standards in accordance with RCW  
33 13.40.030; and

34 (d) If the commission identifies racial or other  
35 disproportionalities at any stage of administration of juvenile  
36 justice, in its annual report identify the disproportionalities and  
37 make recommendations for corrective measures.



1 The evaluations shall be submitted to the legislature on December  
2 1 of each (~~even-numbered~~) year (~~thereafter~~).

3 (~~(2) (It is the responsibility of the department to: (a) Provide~~  
4 ~~the commission with available data concerning the implementation of the~~  
5 ~~disposition standards and related statutes and their effect on the~~  
6 ~~performance of the department's responsibilities relating to juvenile~~  
7 ~~offenders; (b) at the request of the commission, provide technical and~~  
8 ~~administrative assistance to the commission in the performance of its~~  
9 ~~responsibilities; and (c) provide the commission and legislature with~~  
10 ~~recommendations for modification of the disposition standards.))~~ The  
11 office of financial management shall determine the appropriate staffing  
12 level for the commission to provide a research staff of sufficient size  
13 and with sufficient resources to accomplish its duties. The salary for  
14 a full-time executive officer, if any, shall be fixed by the governor  
15 under RCW 43.03.040.

16 (3) The commission may request from the office of financial  
17 management, the administrator for the courts, local law and justice  
18 councils, and the department such data, information, and data  
19 processing assistance as it may need to accomplish its duties, and the  
20 services shall be provided without cost to the commission. The  
21 department and other organizations or individuals shall provide the  
22 commission and the legislature with recommendations for modification of  
23 the disposition standards. The commission shall have rule-making  
24 authority to develop a system for fulfilling its identified data needs.

25 (4) The commission shall conduct a study to determine the capacity  
26 of rehabilitative facilities and programs that are or will be  
27 available. While the commission need not consider the capacity in  
28 arriving at its recommendations, the commission shall project whether  
29 the implementation of its recommendations would result in exceeding the  
30 capacity. If the commission finds that this result would probably  
31 occur, then the commission shall prepare an additional list of standard  
32 sentences that shall be consistent with the capacity.

33 (5) The commission shall study the existing juvenile justice code  
34 and from time to time make recommendations to the legislature for  
35 modification.

36 (6) The commission shall adopt its own bylaws.

37 **Sec. 6.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read  
38 as follows:

1       ~~((1)(a) The juvenile disposition standards commission shall~~  
2 ~~recommend to the legislature no later than November 1st of each year~~  
3 ~~disposition standards for all offenses. The standards shall establish,~~  
4 ~~in accordance with the purposes of this chapter, ranges which may~~  
5 ~~include terms of confinement and/or community supervision established~~  
6 ~~on the basis of a youth's age, the instant offense, and the history and~~  
7 ~~seriousness of previous offenses, but in no case may the period of~~  
8 ~~confinement and supervision exceed that to which an adult may be~~  
9 ~~subjected for the same offense(s). Standards recommended for offenders~~  
10 ~~listed in RCW 13.40.020(1) shall include a range of confinement which~~  
11 ~~may not be less than thirty days. No standard range may include a~~  
12 ~~period of confinement which includes both more than thirty, and thirty~~  
13 ~~or less, days. Disposition standards recommended by the commission~~  
14 ~~shall provide that in all cases where a youth is sentenced to a term of~~  
15 ~~confinement in excess of thirty days the department may impose an~~  
16 ~~additional period of parole not to exceed eighteen months. Standards~~  
17 ~~of confinement which may be proposed may relate only to the length of~~  
18 ~~the proposed terms and not to the nature of the security to be imposed.~~  
19 ~~In developing recommended disposition standards, the commission shall~~  
20 ~~consider the capacity of the state juvenile facilities and the~~  
21 ~~projected impact of the proposed standards on that capacity.~~

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

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

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

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

10       ~~(c) Where the maximum term in the range is more than one year, the~~  
11 ~~minimum term in the range may be no less than eighty percent of the~~  
12 ~~maximum term in the range.)~~)

13       **Sec. 7.** RCW 13.40.070 and 1992 c 205 s 107 are each amended to  
14 read as follows:

15       (1) Complaints referred to the juvenile court alleging the  
16 commission of an offense shall be referred directly to the prosecutor.  
17 The prosecutor, upon receipt of a complaint, shall screen the complaint  
18 to determine whether:

19       (a) The alleged facts bring the case within the jurisdiction of the  
20 court; and

21       (b) On a basis of available evidence there is probable cause to  
22 believe that the juvenile did commit the offense.

23       (2) If the identical alleged acts constitute an offense under both  
24 the law of this state and an ordinance of any city or county of this  
25 state, state law shall govern the prosecutor's screening and charging  
26 decision for both filed and diverted cases.

27       (3) If the requirements of subsections (1) (a) and (b) of this  
28 section are met, the prosecutor shall either file an information in  
29 juvenile court or divert the case, as set forth in subsections (5),  
30 (6), and (7) of this section. If the prosecutor finds that the  
31 requirements of subsection (1) (a) and (b) of this section are not met,  
32 the prosecutor shall maintain a record, for one year, of such decision  
33 and the reasons therefor. In lieu of filing an information or  
34 diverting an offense a prosecutor may file a motion to modify community  
35 supervision where such offense constitutes a violation of community  
36 supervision.

37       (4) An information shall be a plain, concise, and definite written  
38 statement of the essential facts constituting the offense charged. It

1 shall be signed by the prosecuting attorney and conform to chapter  
2 10.37 RCW.

3 (5) Where a case is legally sufficient, the prosecutor shall file  
4 an information with the juvenile court if:

5 (a) An alleged offender is accused of a class A felony, a class B  
6 felony, an attempt to commit a class B felony, or a class C felony  
7 listed in RCW 9.94A.440(2) as a crime against persons(~~(r)~~) or (~~any~~  
8 ~~other offense listed in RCW 13.40.020(1) (b) or (c))~~) in RCW 9A.46.060  
9 as a crime of harassment; or

10 (b) An alleged offender is accused of a felony and has a criminal  
11 history of (~~at least one class A or class B felony, or two class C~~  
12 ~~felonies~~) any felony, or at least two gross misdemeanors, or at least  
13 two misdemeanors (~~and one additional misdemeanor or gross misdemeanor,~~  
14 ~~or at least one class C felony and one misdemeanor or gross~~  
15 ~~misdemeanor~~); or

16 (c) An alleged offender has previously been committed to the  
17 department; or

18 (d) An alleged offender has been referred by a diversion unit for  
19 prosecution or desires prosecution instead of diversion; or

20 (e) An alleged offender has three or more diversion(~~(s)~~) contracts  
21 on the alleged offender's criminal history.

22 (6) Where a case is legally sufficient the prosecutor shall divert  
23 the case if the alleged offense is a misdemeanor or gross misdemeanor  
24 or violation and the alleged offense(~~(s) in combination with the~~  
25 ~~alleged offender's criminal history do not exceed two offenses or~~  
26 ~~violations and do not include any felonies: PROVIDED, That~~) is the  
27 offender's first offense or violation. If the alleged offender is  
28 charged with a related offense that must or may be filed under  
29 subsections (5) and (7) of this section, a case under this subsection  
30 may also be filed.

31 (7) Where a case is legally sufficient and falls into neither  
32 subsection (5) nor (6) of this section, it may be filed or diverted.  
33 In deciding whether to file or divert an offense under this section the  
34 prosecutor shall be guided only by the length, seriousness, and recency  
35 of the alleged offender's criminal history (~~and~~), the circumstances  
36 surrounding the commission of the alleged offense, and the  
37 appropriateness of other disposition options available.

38 (8) Whenever a juvenile is placed in custody or, where not placed  
39 in custody, referred to a diversionary interview, the parent or legal

1 guardian of the juvenile shall be notified as soon as possible  
2 concerning the allegation made against the juvenile and the current  
3 status of the juvenile. Where a case involves victims of crimes  
4 against persons or victims whose property has not been recovered at the  
5 time a juvenile is referred to a diversionary unit, the victim shall be  
6 notified of the referral and informed how to contact the unit.

7 (9) The responsibilities of the prosecutor under subsections (1)  
8 through (8) of this section may be performed by a juvenile court  
9 probation counselor for any complaint referred to the court alleging  
10 the commission of an offense which would not be a felony if committed  
11 by an adult, if the prosecutor has given sufficient written notice to  
12 the juvenile court that the prosecutor will not review such complaints.

13 (10) The prosecutor, juvenile court probation counselor, or  
14 diversion unit may, in exercising their authority under this section or  
15 RCW 13.40.080, refer juveniles to mediation or victim offender  
16 reconciliation programs. Such mediation or victim offender  
17 reconciliation programs shall be voluntary for victims.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.40 RCW  
19 to read as follows:

20 (1) At any time before adjudication, the juvenile court has the  
21 power, with the consent of the juvenile and the prosecuting attorney,  
22 to continue the case for a period not to exceed one year from the date  
23 of entry of the plea or finding of guilt. The court may continue the  
24 case for an additional one-year period for good cause.

25 (2) Any juvenile granted a deferral of adjudication under this  
26 section shall be placed under community supervision. The court may  
27 impose any conditions of supervision that it deems appropriate.  
28 Payment of restitution, as provided in RCW 13.40.190 shall also be a  
29 condition of community supervision under this section.

30 (3) Upon full compliance with such conditions of supervision, the  
31 plea of the juvenile or finding of guilt by the court shall be  
32 withdrawn and the case dismissed with prejudice.

33 (4) If the juvenile fails to comply with the terms of supervision,  
34 the court shall enter an order of adjudication and proceed to  
35 disposition. The juvenile's lack of compliance shall be determined by  
36 the judge upon written motion by the prosecutor or the juvenile's  
37 juvenile court probation counselor. The state shall bear the burden to

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

3 (5) If the juvenile agrees to a deferral of adjudication, the  
4 juvenile shall waive all rights:

5 (a) To a speedy trial and disposition;

6 (b) To call and confront witnesses; and

7 (c) To a hearing on the record. The adjudicatory hearing shall be  
8 limited to a reading of the court's record.

9 (6)(a) In addition to imposing conditions of community supervision,  
10 the court may order that the juvenile be placed in a placement out of  
11 the home if the court finds that the child is in need of supervision  
12 and that placement of the child out of the home is in the child's best  
13 interests. The court shall consider the following factors, among  
14 others, when determining whether to place the child out of the home:

15 (i) The age of the youth;

16 (ii) Whether the child has a history of running away from home,  
17 school absences, drug or alcohol abuse, assaultive behavior, curfew  
18 violations, or is beyond the control of his or her parent to the extent  
19 that the child's behavior substantially endangers the health, safety,  
20 or welfare of the child or any other person;

21 (iii) The probation officer's report concerning the family  
22 environment;

23 (iv) Assessment of the child's chances of successfully complying  
24 with the terms of community supervision if the child remains in the  
25 home; and

26 (v) The wishes of the parents, the parent's willingness and ability  
27 to assist the child in complying with the terms of community  
28 supervision, and the parent's willingness and ability to voluntarily  
29 attend counseling or parenting seminars, or to seek treatment if the  
30 parent, in the court's determination, has drug or alcohol problems,  
31 mental health problems, or anger management problems.

32 (b) If the court finds that placement out of the home is necessary  
33 and is in the best interests of the juvenile and community, the court  
34 shall, subject to available funds and beds, place the juvenile in a  
35 placement that most appropriately meets the needs of the juvenile, the  
36 juvenile's family, and the community. In making its decision regarding  
37 proper placement, the court shall accord great weight to the juvenile  
38 probation counselor's placement recommendation.

1 (c) A placement out of the home shall not exceed one year. The  
2 court shall review the placement every ninety days.

3 (d) The court shall enter findings articulating the basis for the  
4 placement and the basis for selecting the particular placement.

5 (e) If the court places a juvenile in an out of home placement  
6 funded by the county, and the receiving agency determines that the  
7 child is inappropriately placed, the agency may file a petition for  
8 reconsideration with the court no later than thirty days after  
9 placement.

10 (f) Nothing in this section authorizes a juvenile court judge to  
11 place a juvenile in a state-funded out of home placement unless the  
12 department agrees to the placement.

13 (7) This section shall not apply if the juvenile is charged with a  
14 violent or sex offense or if the juvenile has had a prior adjudication.

15 **Sec. 9.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to  
16 read as follows:

17 (1) In disposition hearings all relevant and material evidence,  
18 including oral and written reports, may be received by the court and  
19 may be relied upon to the extent of its probative value, even though  
20 such evidence may not be admissible in a hearing on the information.  
21 The youth or the youth's counsel and the prosecuting attorney shall be  
22 afforded an opportunity to examine and controvert written reports so  
23 received and to cross-examine individuals making reports when such  
24 individuals are reasonably available, but sources of confidential  
25 information need not be disclosed. The prosecutor and counsel for the  
26 juvenile may submit recommendations for disposition.

27 (2) For purposes of disposition:

28 (a) ~~((Violations which are current offenses count as misdemeanors;~~  
29 ~~(b)))~~ Violations may not count as part of the offender's criminal  
30 history;

31 ~~((e)))~~ (b) In no event may a disposition for a violation include  
32 confinement.

33 (3) Before entering a dispositional order as to a respondent found  
34 to have committed an offense, the court shall hold a disposition  
35 hearing, at which the court shall:

36 (a) Consider the facts supporting the allegations of criminal  
37 conduct by the respondent;

- 1 (b) Consider information and arguments offered by parties and their  
2 counsel;
- 3 (c) Consider any predisposition reports;
- 4 (d) Consult with the respondent's parent, guardian, or custodian on  
5 the appropriateness of dispositional options under consideration and  
6 afford the respondent and the respondent's parent, guardian, or  
7 custodian an opportunity to speak in the respondent's behalf;
- 8 (e) Allow the victim or a representative of the victim and an  
9 investigative law enforcement officer to speak;
- 10 (f) Determine the amount of restitution owing to the victim, if  
11 any;
- 12 (g) (~~Determine whether the respondent is a serious offender, a~~  
13 ~~middle offender, or a minor or first offender~~) Consider the types of  
14 treatment, therapy, education, and other rehabilitative services that  
15 would be most effective at rehabilitating the offender;
- 16 (h) Consider whether or not any of the following mitigating factors  
17 exist:
- 18 (i) The respondent's conduct neither caused nor threatened serious  
19 bodily injury or the respondent did not contemplate that his or her  
20 conduct would cause or threaten serious bodily injury;
- 21 (ii) The respondent acted under strong and immediate provocation;
- 22 (iii) The respondent was suffering from a mental or physical  
23 condition that significantly reduced his or her culpability for the  
24 offense though failing to establish a defense;
- 25 (iv) Prior to his or her detection, the respondent compensated or  
26 made a good faith attempt to compensate the victim for the injury or  
27 loss sustained; and
- 28 (v) There has been at least one year between the respondent's  
29 current offense and any prior criminal offense;
- 30 (i) Consider whether or not any of the following aggravating  
31 factors exist:
- 32 (i) In the commission of the offense, or in flight therefrom, the  
33 respondent inflicted or attempted to inflict serious bodily injury to  
34 another;
- 35 (ii) The offense was committed in an especially heinous, cruel, or  
36 depraved manner;
- 37 (iii) The victim or victims were particularly vulnerable;



1 (iv) The respondent has a recent criminal history or has failed to  
2 comply with conditions of a recent dispositional order or diversion  
3 agreement;

4 (v) The current offense included a finding of sexual motivation  
5 pursuant to RCW 9.94A.127;

6 (vi) The respondent was the leader of a criminal enterprise  
7 involving several persons; and

8 (vii) There are other complaints which have resulted in diversion  
9 or a finding or plea of guilty but which are not included as criminal  
10 history.

11 (4) The following factors may not be considered in determining the  
12 punishment to be imposed:

13 (a) The sex of the respondent;

14 (b) The race or color of the respondent or the respondent's family;

15 (c) The creed or religion of the respondent or the respondent's  
16 family;

17 (d) The economic or social class of the respondent or the  
18 respondent's family; and

19 (e) Factors indicating that the respondent may be or is a dependent  
20 child within the meaning of this chapter.

21 (5) A court may not commit a juvenile to a state institution solely  
22 because of the lack of facilities, including treatment facilities,  
23 existing in the community.

24 **Sec. 10.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to read  
25 as follows:

26 (1) (~~When the respondent is found to be a serious offender, the~~  
27 ~~court shall commit the offender to the department for the standard~~  
28 ~~range of disposition for the offense, as indicated in option A of~~  
29 ~~schedule D-3, RCW 13.40.0357 except as provided in subsection (5) of~~  
30 ~~this section.~~

31 ~~If the court concludes, and enters reasons for its conclusion, that~~  
32 ~~disposition within the standard range would effectuate a manifest~~  
33 ~~injustice the court shall impose a disposition outside the standard~~  
34 ~~range, as indicated in option B of schedule D-3, RCW 13.40.0357. The~~  
35 ~~court's finding of manifest injustice shall be supported by clear and~~  
36 ~~convincing evidence.~~

37 ~~A disposition outside the standard range shall be determinate and~~  
38 ~~shall be comprised of confinement or community supervision, or a~~

1 combination thereof. When a judge finds a manifest injustice and  
2 imposes a sentence of confinement exceeding thirty days, the court  
3 shall sentence the juvenile to a maximum term, and the provisions of  
4 RCW 13.40.030(2), as now or hereafter amended, shall be used to  
5 determine the range. A disposition outside the standard range is  
6 appealable under RCW 13.40.230, as now or hereafter amended, by the  
7 state or the respondent. A disposition within the standard range is  
8 not appealable under RCW 13.40.230 as now or hereafter amended.

9 (2) Where the respondent is found to be a minor or first offender,  
10 the court shall order that the respondent serve a term of community  
11 supervision as indicated in option A or option B of schedule D-1, RCW  
12 13.40.0357 except as provided in subsection (5) of this section. If  
13 the court determines that a disposition of community supervision would  
14 effectuate a manifest injustice the court may impose another  
15 disposition under option C of schedule D-1, RCW 13.40.0357. Except as  
16 provided in subsection (5) of this section, a disposition other than a  
17 community supervision may be imposed only after the court enters  
18 reasons upon which it bases its conclusions that imposition of  
19 community supervision would effectuate a manifest injustice. When a  
20 judge finds a manifest injustice and imposes a sentence of confinement  
21 exceeding thirty days, the court shall sentence the juvenile to a  
22 maximum term, and the provisions of RCW 13.40.030(2), as now or  
23 hereafter amended, shall be used to determine the range. The court's  
24 finding of manifest injustice shall be supported by clear and  
25 convincing evidence.

26 Except for disposition of community supervision or a disposition  
27 imposed pursuant to subsection (5) of this section, a disposition may  
28 be appealed as provided in RCW 13.40.230, as now or hereafter amended,  
29 by the state or the respondent. A disposition of community supervision  
30 or a disposition imposed pursuant to subsection (5) of this section may  
31 not be appealed under RCW 13.40.230 as now or hereafter amended.

32 (3) Where a respondent is found to have committed an offense for  
33 which the respondent declined to enter into a diversion agreement, the  
34 court shall impose a term of community supervision limited to the  
35 conditions allowed in a diversion agreement as provided in RCW  
36 13.40.080(2) as now or hereafter amended.

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

38 (a) The court shall impose a determinate disposition within the  
39 standard range(s) for such offense, as indicated in option A of

1 ~~schedule D-2, RCW 13.40.0357 except as provided in subsection (5) of~~  
2 ~~this section: PROVIDED, That if the standard range includes a term of~~  
3 ~~confinement exceeding thirty days, commitment shall be to the~~  
4 ~~department for the standard range of confinement; or~~

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

11 ~~(c) Only if the court concludes, and enters reasons for its~~  
12 ~~conclusions, that disposition as provided in subsection (4)(a) or (b)~~  
13 ~~of this section would effectuate a manifest injustice, the court shall~~  
14 ~~sentence the juvenile to a maximum term, and the provisions of RCW~~  
15 ~~13.40.030(2), as now or hereafter amended, shall be used to determine~~  
16 ~~the range. The court's finding of manifest injustice shall be~~  
17 ~~supported by clear and convincing evidence.~~

18 ~~(d) A disposition pursuant to subsection (4)(c) of this section is~~  
19 ~~appealable under RCW 13.40.230, as now or hereafter amended, by the~~  
20 ~~state or the respondent. A disposition pursuant to subsection (4) (a)~~  
21 ~~or (b) of this section is not appealable under RCW 13.40.230 as now or~~  
22 ~~hereafter amended.~~

23 ~~(5)) The court may impose a disposition as provided in this~~  
24 ~~section for any juvenile adjudicated for an offense.~~

25 ~~(2) The court shall consider various factors, including but not~~  
26 ~~limited to the following, when determining a disposition:~~

27 ~~(a) The juvenile's age and maturity;~~

28 ~~(b) The juvenile's criminal history and the recency of that~~  
29 ~~criminal history;~~

30 ~~(c) Whether the juvenile has had prior deferrals of adjudications;~~

31 ~~(d) Whether the juvenile complied with the terms of the disposition~~  
32 ~~imposed for prior offenses;~~

33 ~~(e) The seriousness of the offense;~~

34 ~~(f) Whether the juvenile's adjudication resulted from accomplice~~  
35 ~~liability; and~~

36 ~~(g) Whether any aggravating or mitigating factors apply.~~

37 ~~(3)(a) For a juvenile adjudicated for a misdemeanor or a gross~~  
38 ~~misdemeanor, the court shall impose a disposition comprised of any of~~  
39 ~~the following:~~

1       0 - 12 Months of community supervision;  
2       0 - 150 Hours of community service;  
3       0 - \$100 Fine;  
4       0 - 30 Days in confinement if the juvenile has prior criminal  
5 history or a prior deferred adjudication.

6       (b) The court shall not commit a juvenile adjudicated of a  
7 misdemeanor or gross misdemeanor to the department unless the court  
8 enters a finding that a disposition under (a) of this subsection would  
9 effectuate a manifest injustice.

10       (4)(a) For a juvenile adjudicated of a class C or B felony that is  
11 not: A violent offense, a crime against persons as defined in RCW  
12 9.94A.440(2), or a crime of harassment as defined in RCW 9A.46.060, the  
13 court shall impose a disposition comprised of any of the following:

14       0 - 12 Months of community supervision;  
15       0 - 150 Hours of community service;  
16       0 - \$100 Fine;  
17       0 - 30 Days in confinement.

18       (b) The court shall not commit a juvenile adjudicated under this  
19 subsection (4) to the department unless the court enters a finding that  
20 a disposition under (a) of this subsection would effectuate a manifest  
21 injustice, or the juvenile has a significant criminal history that  
22 would support a finding of an aggravating factor under RCW 13.40.150(3)  
23 if the criminal history was more recent.

24       (c) The court may suspend all or a portion of any term of  
25 confinement or commitment imposed under this subsection (4).

26       (5)(a) For a juvenile adjudicated of a class C or B felony that is  
27 a crime against persons or a crime of harassment but is not a violent  
28 offense, the court shall impose a disposition comprised of the  
29 following:

30       (i) 0 - 12 Months community supervision;  
31       0 - 150 Hours community service;  
32       0 - \$100 Fine;  
33       0 - 30 Days in confinement; or

34       (ii) 8 - 129 Weeks committed to the department.

35       (b) The court shall not commit a juvenile adjudicated under this  
36 subsection (5) to the department in excess of one hundred twenty-nine  
37 weeks unless the court enters a finding that a disposition under this  
38 subsection (5) would effect a manifest injustice. The basis for the

1 manifest injustice must be a basis other than the offender's criminal  
2 history as described in RCW 13.40.150(3)(h)(iv).

3 (c) The court may suspend all or a portion of any term of  
4 confinement or commitment imposed under this subsection (5). In  
5 addition to the suspended confinement or commitment, the court may  
6 impose community supervision, community service, or a fine as provided  
7 in (a)(i) of this subsection.

8 (6)(a) If a juvenile is adjudicated of a class A felony, an  
9 attempt to commit a class A felony, a sex or violent offense, or an  
10 offense in which a finding was entered that the offender was armed with  
11 a deadly weapon as defined in RCW 9.94A.125 when the offense was  
12 committed, the court shall impose a disposition of the following:

13 8 - 224 Weeks committed to the department.

14 (b) The court shall not impose a disposition under this subsection  
15 (6) outside the standard range unless the court finds that imposition  
16 of the standard range would effectuate a manifest injustice.

17 (7) In all cases, the court shall impose a determinate  
18 disposition.

19 (8) If the court concludes, and enters reasons for its conclusion,  
20 that disposition within the presumptive range would effectuate a  
21 manifest injustice, the court shall impose a determinate disposition  
22 outside the standard range. If the court imposes a disposition below  
23 the presumptive range due to a manifest injustice, the disposition  
24 shall be comprised of community supervision or confinement, or both.  
25 The court's finding of manifest injustice shall be supported by clear  
26 and convincing evidence. A disposition outside the standard range  
27 shall be appealable under RCW 13.40.230, by the state or respondent.  
28 A disposition within the standard range is not appealable.

29 (9) In all cases, the court shall enter an order for restitution,  
30 if any is due to the victim, according to RCW 13.40.190.

31 (10) In all disposition orders that include commitment to the  
32 department, the court shall make a finding of reasonable rehabilitative  
33 goals to be achieved by the juvenile during the commitment term. These  
34 goals may include, by way of example and not limitation, completion of  
35 substance abuse treatment, completion of anger management courses, and  
36 achievement of academic, educational, or vocational goals, such as  
37 grade-level reading or GED completion.

38 (11) When ((a serious, middle, or minor first)) an offender is  
39 found to have committed a sex offense, other than a sex offense that is

1 also a serious violent offense as defined by RCW 9.94A.030, and has no  
2 history of a prior sex offense, the court, on its own motion or the  
3 motion of the state or the respondent, may order an examination to  
4 determine whether the respondent is amenable to treatment.

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

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

16 (a)(i) Frequency and type of contact between the offender and  
17 therapist;

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

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

23 (iv) Anticipated length of treatment; and

24 (v) Recommended crime-related prohibitions.

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

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

1 two years. As a condition of the suspended disposition, the court may  
2 impose the conditions of community supervision and other conditions,  
3 including up to thirty days of confinement and requirements that the  
4 offender do any one or more of the following:

5 (b)(i) Devote time to a specific education, employment, or  
6 occupation;

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

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

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

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

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

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

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

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

37 Except as provided in this subsection (~~(+5+)~~) (11), after July 1,  
38 1991, examinations and treatment ordered pursuant to this subsection  
39 shall only be conducted by sex offender treatment providers certified

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

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

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

23 ~~((6))~~ (12) Whenever a juvenile offender is entitled to credit  
24 for time spent in detention prior to a dispositional order, the  
25 dispositional order shall specifically state the number of days of  
26 credit for time served.

27 ~~((7) Except as provided for in subsection (5) of this section,~~  
28 ~~the court shall not suspend or defer the imposition or the execution of~~  
29 ~~the disposition.~~

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

33 **Sec. 11.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to  
34 read as follows:

35 Where a disposition is imposed on a youth for two or more  
36 offenses, the terms shall run (~~consecutively, subject to the following~~  
37 ~~limitations:—~~



1       ~~(1) Where the offenses were committed through a single act or~~  
2 ~~omission, omission, or through an act or omission which in itself~~  
3 ~~constituted one of the offenses and also was an element of the other,~~  
4 ~~the aggregate of all the terms shall not exceed one hundred fifty~~  
5 ~~percent of the term imposed for the most serious offense;~~

6       ~~(2) The aggregate of all consecutive terms shall not exceed three~~  
7 ~~hundred percent of the term imposed for the most serious offense; and~~

8       ~~(3) The aggregate of all consecutive terms of community~~  
9 ~~supervision shall not exceed two years in length, or require payment of~~  
10 ~~more than two hundred dollars in fines or the performance of more than~~  
11 ~~two hundred hours of community service)) concurrently.~~

12       **Sec. 12.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to  
13 read as follows:

14       (1) A juvenile sentenced to a term of confinement to be served  
15 under the supervision of the department shall not be released from the  
16 physical custody of the department prior to the release date  
17 established under RCW 13.40.210 except as otherwise provided in this  
18 section.

19       (2) A juvenile serving a term of confinement under the supervision  
20 of the department may be released on authorized leave from the physical  
21 custody of the department only if consistent with public safety and if:

22       (a) Sixty percent of the ((minimum)) term of confinement has been  
23 served; and

24       (b) The purpose of the leave is to enable the juvenile:

25       (i) To visit the juvenile's family for the purpose of  
26 strengthening or preserving family relationships;

27       (ii) To make plans for parole or release which require the  
28 juvenile's personal appearance in the community and which will  
29 facilitate the juvenile's reintegration into the community; or

30       (iii) To make plans for a residential placement out of the  
31 juvenile's home which requires the juvenile's personal appearance in  
32 the community.

33       (3) No authorized leave may exceed seven consecutive days. The  
34 total of all pre-minimum term authorized leaves granted to a juvenile  
35 prior to final discharge from confinement shall not exceed thirty days.

36       (4) Prior to authorizing a leave, the secretary shall require a  
37 written leave plan, which shall detail the purpose of the leave and how  
38 it is to be achieved, the address at which the juvenile shall reside,

1 the identity of the person responsible for supervising the juvenile  
2 during the leave, and a statement by such person acknowledging  
3 familiarity with the leave plan and agreeing to supervise the juvenile  
4 and to notify the secretary immediately if the juvenile violates any  
5 terms or conditions of the leave. The leave plan shall include such  
6 terms and conditions as the secretary deems appropriate and shall be  
7 signed by the juvenile.

8 (5) Upon authorizing a leave, the secretary shall issue to the  
9 juvenile an authorized leave order which shall contain the name of the  
10 juvenile, the fact that the juvenile is on leave from a designated  
11 facility, the time period of the leave, and the identity of an  
12 appropriate official of the department to contact when necessary. The  
13 authorized leave order shall be carried by the juvenile at all times  
14 while on leave.

15 (6) Prior to the commencement of any authorized leave, the  
16 secretary shall give notice of the leave to the appropriate law  
17 enforcement agency in the jurisdiction in which the juvenile will  
18 reside during the leave period. The notice shall include the identity  
19 of the juvenile, the time period of the leave, the residence of the  
20 juvenile during the leave, and the identity of the person responsible  
21 for supervising the juvenile during the leave.

22 (7) The secretary may authorize a leave, which shall not exceed  
23 forty-eight hours plus travel time, to meet an emergency situation such  
24 as a death or critical illness of a member of the juvenile's family.  
25 The secretary may authorize a leave, which shall not exceed the period  
26 of time medically necessary, to obtain medical care not available in a  
27 juvenile facility maintained by the department. In cases of emergency  
28 or medical leave the secretary may waive all or any portions of  
29 subsections (2)(a), (3), (4), (5), and (6) of this section.

30 (8) If requested by the juvenile's victim or the victim's  
31 immediate family, the secretary shall give notice of any leave to the  
32 victim or the victim's immediate family.

33 (9) A juvenile who violates any condition of an authorized leave  
34 plan may be taken into custody and returned to the department in the  
35 same manner as an adult in identical circumstances.

36 (10) Notwithstanding the provisions of this section, a juvenile  
37 placed in minimum security status may participate in work, educational,  
38 community service, or treatment programs in the community up to twelve

1 hours a day if approved by the secretary. Such a release shall not be  
2 deemed a leave of absence.

3 (11) Subsections (6), (7), and (8) of this section do not apply to  
4 juveniles covered by RCW 13.40.215.

5 **Sec. 13.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to  
6 read as follows:

7 ~~(1) ((The secretary shall, except in the case of a juvenile~~  
8 ~~committed by a court to a term of confinement in a state institution~~  
9 ~~outside the appropriate standard range for the offense(s) for which the~~  
10 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~  
11 ~~as now or hereafter amended, set a release or discharge date for each~~  
12 ~~juvenile committed to its custody which shall be within the prescribed~~  
13 ~~range to which a juvenile has been committed. Such dates shall be~~  
14 ~~determined prior to the expiration of sixty percent of a juvenile's~~  
15 ~~minimum term of confinement included within the prescribed range to~~  
16 ~~which the juvenile has been committed.))~~ (a) When a juvenile is  
17 committed to a term of confinement in a state institution, the  
18 secretary shall review the sentencing court's finding of the  
19 rehabilitative goals to be achieved by the juvenile during the term of  
20 confinement. The department shall provide rehabilitative resources,  
21 including by way of example education, vocational training, and  
22 treatment, to permit the juvenile to achieve these rehabilitative  
23 goals.

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

30 (c) The department shall present this report to the court. The  
31 court, after considering the department's report, shall determine a  
32 release or discharge date for the juvenile. If the court sets a  
33 release date prior to expiration of the original term, the court may  
34 suspend the remainder of the term.

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

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

1        (f) After the court determines a release date, the secretary shall  
2 release any juvenile committed to the custody of the department within  
3 four calendar days prior to the juvenile's release date or on the  
4 release date set under this chapter(~~(:—PROVIDED, That)~~). Days spent  
5 in the custody of the department shall be tolled by any period of time  
6 during which a juvenile has absented himself or herself from the  
7 department's supervision without the prior approval of the secretary or  
8 the secretary's designee.

9        (2) The secretary shall monitor the average daily population of  
10 the state's juvenile residential facilities. When the secretary  
11 concludes that in-residence population of residential facilities  
12 exceeds one hundred five percent of the rated bed capacity specified in  
13 statute, or in absence of such specification, as specified by the  
14 department in rule, the secretary may recommend reductions to the  
15 governor. On certification by the governor that the recommended  
16 reductions are necessary, the secretary has authority to  
17 administratively release a sufficient number of offenders to reduce in-  
18 residence population to one hundred percent of rated bed capacity. The  
19 secretary shall release those offenders who have served the greatest  
20 proportion of their sentence. However, the secretary may deny release  
21 in a particular case at the request of an offender, or if the secretary  
22 finds that there is no responsible custodian, as determined by the  
23 department, to whom to release the offender, or if the release of the  
24 offender would pose a clear danger to society. The department shall  
25 notify the committing court of the release at the end of each calendar  
26 year if any such early releases have occurred during that year as a  
27 result of excessive in-residence population. In no event shall (~~a~~  
28 ~~serious~~) an offender(~~(, as defined in RCW 13.40.020(1))~~) adjudicated  
29 of a violent offense be granted release under the provisions of this  
30 subsection.

31        (3) Following the juvenile's release pursuant to subsection (1) of  
32 this section, the secretary may require the juvenile to comply with a  
33 program of parole to be administered by the department in his or her  
34 community which shall last no longer than eighteen months, except that  
35 in the case of a juvenile sentenced for rape in the first or second  
36 degree, rape of a child in the first or second degree, child  
37 molestation in the first degree, or indecent liberties with forcible  
38 compulsion, the period of parole shall be twenty-four months. A parole  
39 program is mandatory for offenders released under subsection (2) of

1 this section. The secretary shall, for the period of parole,  
2 facilitate the juvenile's reintegration into his or her community and  
3 to further this goal may require the juvenile to: (a) Undergo  
4 available medical or psychiatric treatment; (b) report as directed to  
5 a parole officer; (c) pursue a course of study or vocational training;  
6 (d) remain within prescribed geographical boundaries and notify the  
7 department of any change in his or her address; and (e) refrain from  
8 committing new offenses. After termination of the parole period, the  
9 juvenile shall be discharged from the department's supervision.

10 (4) The department may also modify parole for violation thereof.  
11 If, after affording a juvenile all of the due process rights to which  
12 he or she would be entitled if the juvenile were an adult, the  
13 secretary finds that a juvenile has violated a condition of his or her  
14 parole, the secretary shall order one of the following which is  
15 reasonably likely to effectuate the purpose of the parole and to  
16 protect the public: (a) Continued supervision under the same  
17 conditions previously imposed; (b) intensified supervision with  
18 increased reporting requirements; (c) additional conditions of  
19 supervision authorized by this chapter; (d) except as provided in (e)  
20 of this subsection, imposition of a period of confinement not to exceed  
21 thirty days in a facility operated by or pursuant to a contract with  
22 the state of Washington or any city or county for a portion of each day  
23 or for a certain number of days each week with the balance of the days  
24 or weeks spent under supervision; and (e) the secretary may order any  
25 of the conditions or may return the offender to confinement in an  
26 institution for the remainder of the sentence range if the offense for  
27 which the offender was sentenced is rape in the first or second degree,  
28 rape of a child in the first or second degree, child molestation in the  
29 first degree, indecent liberties with forcible compulsion, or a sex  
30 offense that is also a serious violent offense as defined by RCW  
31 9.94A.030.

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

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

1           **Sec. 14.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to  
2 read as follows:

3           (1) Dispositions reviewed pursuant to RCW 13.40.160(~~(, as now or~~  
4 ~~hereafter amended,)~~) shall be reviewed in the appropriate division of  
5 the court of appeals.

6           An appeal under this section shall be heard solely upon the record  
7 that was before the disposition court. No written briefs may be  
8 required, and the appeal shall be heard within thirty days following  
9 the date of sentencing and a decision rendered within fifteen days  
10 following the argument. The supreme court shall promulgate any  
11 necessary rules to effectuate the purposes of this section.

12           (2) To uphold a disposition outside the standard range, (~~or which~~  
13 ~~imposes confinement for a minor or first offender,)~~) the court of  
14 appeals must find (a) that the reasons supplied by the disposition  
15 judge are supported by the record which was before the judge and that  
16 those reasons clearly and convincingly support the conclusion that a  
17 disposition within the range(~~, or nonconfinement for a minor or first~~  
18 ~~offender,)~~) would constitute a manifest injustice, and (b) that the  
19 sentence imposed was neither clearly excessive nor clearly too lenient.

20           (3) If the court does not find subsection (2)(a) of this section  
21 it shall remand the case for disposition within the standard range or  
22 for community supervision without confinement as would otherwise be  
23 appropriate pursuant to this chapter.

24           (4) If the court finds subsection (2)(a) but not subsection (2)(b)  
25 of this section it shall remand the case with instructions for further  
26 proceedings consistent with the provisions of this chapter.

27           (5) Pending appeal, a respondent may not be committed or detained  
28 for a period of time in excess of the standard range for the offense(s)  
29 committed or sixty days, whichever is longer. The disposition court  
30 may impose conditions on release pending appeal as provided in RCW  
31 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of  
32 commitment or detention specified in this subsection, the court may  
33 also impose such conditions on the respondent's release pending  
34 disposition of the appeal.

35           (6) Appeal of a disposition under this section does not affect the  
36 finality or appeal of the underlying adjudication of guilt.

37           NEW SECTION. **Sec. 15.** A new section is added to chapter 13.40  
38 RCW to read as follows:

1           The designation in statute or ordinance of a violation or crime as  
2 an infraction, misdemeanor, gross misdemeanor, or class A, B, or C  
3 felony shall determine the class of offense for purposes of this  
4 chapter.

5           **Sec. 16.** RCW 13.50.010 and 1993 c 374 s 1 are each amended to  
6 read as follows:

7           (1) For purposes of this chapter:

8           (a) "Juvenile justice or care agency" means any of the following:  
9 Police, diversion units, court, prosecuting attorney, defense attorney,  
10 detention center, attorney general, the department of social and health  
11 services and its contracting agencies, schools, juvenile justice  
12 advisory committees of county law and justice councils; and, in  
13 addition, persons or public or private agencies having children  
14 committed to their custody;

15           (b) "Official juvenile court file" means the legal file of the  
16 juvenile court containing the petition or information, motions,  
17 memorandums, briefs, findings of the court, and court orders;

18           (c) "Social file" means the juvenile court file containing the  
19 records and reports of the probation counselor;

20           (d) "Records" means the official juvenile court file, the social  
21 file, and records of any other juvenile justice or care agency in the  
22 case.

23           (2) Each petition or information filed with the court may include  
24 only one juvenile and each petition or information shall be filed under  
25 a separate docket number. The social file shall be filed separately  
26 from the official juvenile court file.

27           (3) It is the duty of any juvenile justice or care agency to  
28 maintain accurate records. To this end:

29           (a) The agency may never knowingly record inaccurate information.  
30 Any information in records maintained by the department of social and  
31 health services relating to a petition filed pursuant to chapter 13.34  
32 RCW that is found by the court, upon proof presented, to be false or  
33 inaccurate shall be corrected or expunged from such records by the  
34 agency;

35           (b) An agency shall take reasonable steps to insure the security  
36 of its records and prevent tampering with them; and

1 (c) An agency shall make reasonable efforts to insure the  
2 completeness of its records, including action taken by other agencies  
3 with respect to matters in its files.

4 (4) Each juvenile justice or care agency shall implement  
5 procedures consistent with the provisions of this chapter to facilitate  
6 inquiries concerning records.

7 (5) Any person who has reasonable cause to believe information  
8 concerning that person is included in the records of a juvenile justice  
9 or care agency and who has been denied access to those records by the  
10 agency may make a motion to the court for an order authorizing that  
11 person to inspect the juvenile justice or care agency record concerning  
12 that person. The court shall grant the motion to examine records  
13 unless it finds that in the interests of justice or in the best  
14 interests of the juvenile the records or parts of them should remain  
15 confidential.

16 (6) A juvenile, or his or her parents, or any person who has  
17 reasonable cause to believe information concerning that person is  
18 included in the records of a juvenile justice or care agency may make  
19 a motion to the court challenging the accuracy of any information  
20 concerning the moving party in the record or challenging the continued  
21 possession of the record by the agency. If the court grants the  
22 motion, it shall order the record or information to be corrected or  
23 destroyed.

24 (7) The person making a motion under subsection (5) or (6) of this  
25 section shall give reasonable notice of the motion to all parties to  
26 the original action and to any agency whose records will be affected by  
27 the motion.

28 (8) The court may permit inspection of records by, or release of  
29 information to, any clinic, hospital, or agency which has the subject  
30 person under care or treatment, or to individuals or agencies engaged  
31 in legitimate research for educational, scientific, or public purposes,  
32 including juvenile justice advisory committees of county law and  
33 justice councils. The court may also permit inspection of, or release  
34 of information from, records which have been sealed pursuant to RCW  
35 13.50.050(11). Access to records or information for research purposes  
36 shall be permitted only if the anonymity of all persons mentioned in  
37 the records or information will be preserved. Each person granted  
38 permission to inspect juvenile justice or care agency records for  
39 research purposes shall present a notarized statement to the court



1 stating that the names of juveniles and parents will remain  
2 confidential.

3 (9) Juvenile detention facilities shall release records to the  
4 juvenile disposition standards commission under RCW 13.40.025 upon  
5 request. The commission shall not disclose the names of any juveniles  
6 or parents mentioned in the records without the named individual's  
7 written permission.

8 **Sec. 17.** RCW 72.09.300 and 1993 sp.s. c 21 s 8 are each amended  
9 to read as follows:

10 (1) Every county legislative authority shall by resolution or  
11 ordinance establish a local law and justice council. The county  
12 legislative authority shall determine the size and composition of the  
13 council, which shall include the county sheriff and a representative of  
14 the municipal police departments within the county, the county  
15 prosecutor and a representative of the municipal prosecutors within the  
16 county, a representative of the city legislative authorities within the  
17 county, a representative of the county's superior, district, and  
18 municipal courts, the county jail administrator, the county clerk, the  
19 county risk manager, and the secretary of corrections. Officials  
20 designated may appoint representatives.

21 (2) A combination of counties may establish a local law and  
22 justice council by intergovernmental agreement. The agreement shall  
23 comply with the requirements of this section.

24 (3) The local law and justice council shall develop a local law  
25 and justice plan for the county. The council shall design the elements  
26 and scope of the plan, subject to final approval by the county  
27 legislative authority. The general intent of the plan shall include  
28 seeking means to maximize local resources including personnel and  
29 facilities, reduce duplication of services, and share resources between  
30 local and state government in order to accomplish local efficiencies  
31 without diminishing effectiveness. The plan shall also include a  
32 section on jail management. This section may include the following  
33 elements:

34 (a) A description of current jail conditions, including whether  
35 the jail is overcrowded;

36 (b) A description of potential alternatives to incarceration;

37 (c) A description of current jail resources;

1 (d) A description of the jail population as it presently exists  
2 and how it is projected to change in the future;

3 (e) A description of projected future resource requirements;

4 (f) A proposed action plan, which shall include recommendations to  
5 maximize resources, maximize the use of intermediate sanctions,  
6 minimize overcrowding, avoid duplication of services, and effectively  
7 manage the jail and the offender population;

8 (g) A list of proposed advisory jail standards and methods to  
9 effect periodic quality assurance inspections of the jail;

10 (h) A proposed plan to collect, synthesize, and disseminate  
11 technical information concerning local criminal justice activities,  
12 facilities, and procedures;

13 (i) A description of existing and potential services for offenders  
14 including employment services, substance abuse treatment, mental health  
15 services, and housing referral services.

16 (4) The council may propose other elements of the plan, which  
17 shall be subject to review and approval by the county legislative  
18 authority, prior to their inclusion into the plan.

19 (5) The county legislative authority may request technical  
20 assistance in developing or implementing the plan from other units or  
21 agencies of state or local government, which shall include the  
22 department, the office of financial management, and the Washington  
23 association of sheriffs and police chiefs.

24 (6) Upon receiving a request for assistance from a county, the  
25 department may provide the requested assistance.

26 (7) The secretary may adopt rules for the submittal, review, and  
27 approval of all requests for assistance made to the department. The  
28 secretary may also appoint an advisory committee of local and state  
29 government officials to recommend policies and procedures relating to  
30 the state and local correctional systems and to assist the department  
31 in providing technical assistance to local governments. The committee  
32 shall include representatives of the county sheriffs, the police  
33 chiefs, the county prosecuting attorneys, the county and city  
34 legislative authorities, and the jail administrators. The secretary  
35 may contract with other state and local agencies and provide funding in  
36 order to provide the assistance requested by counties.

37 (8) The department shall establish a base level of state  
38 correctional services, which shall be determined and distributed in a  
39 consistent manner state-wide. The department's contributions to any

1 local government, approved pursuant to this section, shall not operate  
2 to reduce this base level of services.

3 (9) The council shall establish an advisory committee on juvenile  
4 justice proportionality. The council shall appoint two juvenile court  
5 administrators and five citizens as ex advisory committee members. The  
6 citizen advisory committee members shall be representative of the  
7 county's ethnic and geographic diversity. The advisory committee  
8 members shall serve two-year terms and may be reappointed. The actual  
9 expenses of the advisory committee members shall be paid by the county  
10 commissioners. The duties of the advisory committee include:

11 (a) Monitoring and reporting to the juvenile disposition standards  
12 commission on the proportionality, effectiveness, and cultural  
13 relevance of:

14 (i) The rehabilitative goals required by juvenile offender  
15 dispositions;

16 (ii) The rehabilitative services offered by county and state  
17 institutions to juvenile offenders; and

18 (iii) The rehabilitative services offered in conjunction with  
19 diversions, deferred sentences, community supervision, and parole;

20 (b) Reviewing citizen complaints regarding bias or  
21 disproportionality in that county's juvenile justice system;

22 (c) By September 1 of each year, beginning with 1995, submit to  
23 the juvenile disposition standards commission a report summarizing the  
24 advisory committee's findings under (a) and (b) of this subsection.

25 NEW SECTION. Sec. 18. The following acts or parts of acts are  
26 each repealed:

27 (1) RCW 13.40.0354 and 1989 c 407 s 6; and

28 (2) RCW 13.40.0357 and 1989 c 407 s 7.

29 NEW SECTION. Sec. 19. This act shall apply to offenses committed  
30 on or after the effective date of this act.

31 NEW SECTION. Sec. 20. If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected.

1        NEW SECTION.   **Sec. 21.**   This act shall take effect July 1, 1994.

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