
ENGROSSED SUBSTITUTE HOUSE BILL 2906

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Appelwick, Ballasiotes, J. Kohl, Long, L. Johnson, Cooke, Thibaudeau, Lemmon, Morris, Caver, Jones and Dunshee)

Read first time 02/08/94.

1 AN ACT Relating to violence prevention; amending RCW 9.41.045,
2 9.41.050, 9.41.060, 9.41.070, 9.41.080, 9.41.090, 9.41.097, 9.41.098,
3 9.41.100, 9.41.110, 9.41.140, 9.41.170, 9.41.190, 9.41.220, 9.41.230,
4 9.41.250, 9.41.260, 9.41.270, 9.41.280, 9.41.290, 9.41.300, 13.40.265,
5 13.64.060, 42.17.318, 46.20.265, 71.05.450, 71.12.560, 72.23.080,
6 82.04.300, 82.32.030, 13.04.030, 26.12.010, 13.04.021, 72.76.010,
7 9A.56.040, 9A.56.160, 9A.36.045, 9.94A.310, 43.20A.090, 13.50.010,
8 72.09.300, 13.06.050, 13.40.020, 13.40.070, 13.40.080, 13.40.0357,
9 13.40.160, 13.40.180, 13.40.190, 13.40.200, 13.40.210, 13.40.230,
10 13.32A.050, 13.32A.060, 13.32A.080, 13.32A.130, 13.40.020, 13.40.025,
11 13.40.027, 13.40.030, 13.40.150, 13.40.160, 13.40.180, 13.40.205,
12 13.40.210, and 13.40.230; amending 1993 c 415 s 8 (uncodified);
13 reenacting and amending RCW 9.41.010, 9.41.040, 26.28.080, 9.94A.030,
14 and 9.94A.320; adding new sections to chapter 9.41 RCW; adding new
15 sections to chapter 13.40 RCW; adding a new section to chapter 9A.56
16 RCW; adding new sections to chapter 9.91 RCW; adding a new section to
17 chapter 35.21 RCW; adding a new section to chapter 74.13 RCW; adding a
18 new section to chapter 43.101 RCW; creating new sections; recodifying
19 RCW 19.70.010, 19.70.020, and 9.41.160; repealing RCW 9.41.030,
20 9.41.093, 9.41.130, 9.41.150, 9.41.180, 9.41.200, 9.41.210, 9.41.240,
21 13.40.0354, 13.40.0357, and 13.40.---; repealing 1994 c ... s 725

1 (uncodified); prescribing penalties; providing effective dates;
2 providing an expiration date; and declaring an emergency.

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

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19 PART I - FIREARMS AND DANGEROUS WEAPONS

20 **Sec. 101.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are
21 each reenacted and amended to read as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

24 (1) (~~"Short firearm" or~~) "Firearm" means a weapon or device from
25 which a projectile may be fired by an explosive such as gunpowder.

1 (2) "Pistol" (~~((as used in this chapter))~~) means any firearm with a
2 barrel less than twelve inches in length, and is designed to be held
3 and fired by the use of a single hand.

4 (~~((2))~~) (3) "Rifle" means a weapon designed or redesigned, made or
5 remade, and intended to be fired from the shoulder and designed or
6 redesigned, made or remade, and intended to use the energy of the
7 explosive in a fixed metallic cartridge to fire only a single
8 projectile through a rifled bore for each single pull of the trigger.

9 (4) "Short-barreled rifle" means a rifle having one or more barrels
10 less than sixteen inches in length and any weapon made from a rifle by
11 any means of modification if such modified weapon has an overall length
12 of less than twenty-six inches, but does not include such a rifle
13 owned, possessed, or controlled in compliance with federal law.

14 (5) "Shotgun" means a weapon with one or more barrels, designed or
15 redesigned, made or remade, and intended to be fired from the shoulder
16 and designed or redesigned, made or remade, and intended to use the
17 energy of the explosive in a fixed shotgun shell to fire through a
18 smooth bore either a number of ball shot or a single projectile for
19 each single pull of the trigger.

20 (6) "Short-barreled shotgun" means a shotgun having one or more
21 barrels less than eighteen inches in length and any weapon made from a
22 shotgun by any means of modification if such modified weapon has an
23 overall length of less than twenty-six inches, but does not include
24 such a shotgun owned, possessed, or controlled in compliance with
25 federal law.

26 (7) "Machine gun" means any firearm known as a machine gun,
27 mechanical rifle, submachine gun, or any other mechanism or instrument
28 not requiring that the trigger be pressed for each shot and having a
29 reservoir clip, disc, drum, belt, or other separable mechanical device
30 for storing, carrying, or supplying ammunition which can be loaded into
31 the firearm, mechanism, or instrument, and fired therefrom at the rate
32 of five or more shots per second.

33 (8) "Antique firearm" means a firearm or replica of a firearm not
34 designed or redesigned for using rim fire or conventional center fire
35 ignition with fixed ammunition and manufactured in or before 1898,
36 including any matchlock, flintlock, percussion cap, or similar type of
37 ignition system and also any firearm using fixed ammunition
38 manufactured in or before 1898, for which ammunition is no longer

1 manufactured in the United States and is not readily available in the
2 ordinary channels of commercial trade.

3 (9) "Loaded" means:

4 (a) There is a cartridge in the chamber of the firearm;

5 (b) Bullets are in a clip that is locked in place in the firearm;

6 (c) There is a cartridge in the cylinder of the firearm, if the
7 firearm is a revolver; or

8 (d) There is a cartridge in the tube, magazine, or other
9 compartment of the firearm.

10 (10) "Dealer" means a person engaged in the business of selling
11 firearms at wholesale or retail who has, or is required to have, a
12 federal firearms license under 18 U.S.C. Sec. 923(1). A person who
13 does not have, and is not required to have, a federal firearms license
14 under 18 U.S.C. Sec. 923(1), is not a dealer if that person makes only
15 occasional sales, exchanges, or purchases of firearms for the
16 enhancement of a personal collection or for a hobby, or sells all or
17 part of his or her personal collection of firearms.

18 (11) "Crime of violence" ((as used in this chapter)) means:

19 (a) Any of the following felonies, as now existing or hereafter
20 amended: Any felony defined under any law as a class A felony or an
21 attempt to commit a class A felony, criminal solicitation of or
22 criminal conspiracy to commit a class A felony, manslaughter in the
23 first degree, manslaughter in the second degree, indecent liberties if
24 committed by forcible compulsion, rape in the second degree, kidnapping
25 in the second degree, arson in the second degree, assault in the second
26 degree, assault of a child in the second degree, extortion in the first
27 degree, burglary in the second degree, and robbery in the second
28 degree;

29 (b) Any conviction or adjudication for a felony offense in effect
30 at any time prior to July 1, 1976, which is comparable to a felony
31 classified as a crime of violence in ((subsection-(2)))(a) of this
32 ((section)) subsection; and

33 (c) Any federal or out-of-state conviction or adjudication for an
34 offense comparable to a felony classified as a crime of violence under
35 ((subsection-(2))) (a) or (b) of this ((section).

36 ~~(3) "Firearm" as used in this chapter means a weapon or device from~~
37 ~~which a projectile may be fired by an explosive such as gunpowder.~~

38 ~~(4) "Commercial seller" as used in this chapter means a person who~~
39 ~~has a federal firearms license)) subsection.~~

1 **Sec. 102.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are
2 each reenacted and amended to read as follows:

3 (1) A person is guilty of the crime of unlawful possession of a
4 ~~((short))~~ firearm ~~((or pistol,))~~ if~~((, having previously been convicted~~
5 ~~or, as a juvenile, adjudicated in this state or elsewhere of a crime of~~
6 ~~violence or of a felony in which a firearm was used or displayed,))~~ the
7 person owns ~~((or)),~~ has in his or her possession, or has in his or her
8 control any ~~((short))~~ firearm ~~((or pistol))~~:

9 (a) After having previously been convicted or, as a juvenile,
10 adjudicated delinquent in this state or elsewhere of a crime of
11 violence or of a felony in which a firearm was used or displayed,
12 except as otherwise provided in subsection (4) of this section;

13 (b) After having previously been convicted of or adjudicated
14 delinquent for any felony violation of the uniform controlled
15 substances act, chapter 69.50 RCW, or equivalent statutes of another
16 jurisdiction, except as otherwise provided in subsection (4) of this
17 section;

18 (c) After having previously been convicted on three occasions of
19 driving a motor vehicle or operating a vessel while under the influence
20 of intoxicating liquor or any drug, unless his or her right to own,
21 possess, or control a firearm has been restored as provided in section
22 104 of this act;

23 (d) After having previously been committed for mental health
24 treatment, either voluntarily for a period exceeding fourteen
25 continuous days, or involuntarily under RCW 71.05.320, chapter 10.77
26 RCW, or equivalent statutes of another jurisdiction, unless his or her
27 right to own, possess, or control a firearm has been restored as
28 provided in section 104 of this act; or

29 (e) If the person is under eighteen years of age, except as
30 provided in section 103 of this act.

31 (2) Unlawful possession of a ~~((short))~~ firearm ~~((or pistol shall be~~
32 ~~punished as))~~ is a class C felony, punishable under chapter 9A.20 RCW.

33 (3) As used in this section, a person has been "convicted or
34 adjudicated" at such time as a plea of guilty has been accepted or a
35 verdict of guilty has been filed, notwithstanding the pendency of any
36 future proceedings including but not limited to sentencing or
37 disposition, post-trial or post-factfinding motions, and appeals. A
38 person shall not be precluded from ownership, possession, or control of
39 a firearm if the conviction or adjudication has been the subject of a

1 pardon, annulment, certificate of rehabilitation, or other equivalent
2 procedure based on a finding of the rehabilitation of the person
3 convicted or adjudicated or the conviction or disposition has been the
4 subject of a pardon, annulment, or other equivalent procedure based on
5 a finding of innocence.

6 ~~(4) ((Except as provided in subsection (5) of this section, a
7 person is guilty of the crime of unlawful possession of a short firearm
8 or pistol if, after having been convicted or adjudicated of any felony
9 violation of the uniform controlled substances act, chapter 69.50 RCW,
10 or equivalent statutes of another jurisdiction, the person owns or has
11 in his or her possession or under his or her control any short firearm
12 or pistol.~~

13 ~~(5))~~ Notwithstanding subsection (1) of this section, a person
14 convicted of an offense other than murder, manslaughter, robbery, rape,
15 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
16 violations with respect to controlled substances under RCW 69.50.401(a)
17 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
18 and who received a dismissal of the charge under RCW 9.95.240, shall
19 not be precluded from ownership, possession, or control of a firearm as
20 a result of the conviction.

21 ~~((6)(a) A person who has been committed by court order for
22 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,
23 or equivalent statutes of another jurisdiction, may not possess, in any
24 manner, a firearm as defined in RCW 9.41.010.~~

25 ~~(b) At the time of commitment, the court shall specifically state
26 to the person under (a) of this subsection and give the person notice
27 in writing that the person is barred from possession of firearms.~~

28 ~~(c) The secretary of social and health services shall develop
29 appropriate rules to create an approval process under this subsection.
30 The rules must provide for the immediate restoration of the right to
31 possess a firearm upon a showing in a court of competent jurisdiction
32 that a person no longer is required to participate in an inpatient or
33 outpatient treatment program, and is no longer required to take
34 medication to treat any condition related to the commitment. Unlawful
35 possession of a firearm under this subsection shall be punished as a
36 class C felony under chapter 9A.20 RCW.)~~

37 (5) In addition to any other penalty provided for by law, if a
38 person under the age of eighteen years is found by a court to have
39 possessed a firearm in a vehicle in violation of subsection (1) of this

1 section or to have committed an offense while armed with a firearm
2 during which offense a motor vehicle served an integral function, the
3 court shall notify the department of licensing within twenty-four hours
4 and the person's privilege to drive shall be revoked under RCW
5 46.20.265.

6 NEW SECTION. Sec. 103. A new section is added to chapter 9.41 RCW
7 to read as follows:

8 RCW 9.41.040(1)(e) shall not apply to any person under the age of
9 eighteen years who is:

10 (1) In attendance at a hunter's safety course or a firearms safety
11 course;

12 (2) Engaging in practice in the use of a firearm or target shooting
13 at an established range authorized by the governing body of the
14 jurisdiction in which such range is located or any other area where the
15 discharge of a firearm is not prohibited;

16 (3) Engaging in an organized competition involving the use of a
17 firearm, or participating in or practicing for a performance by an
18 organized group that uses firearms as a part of the performance;

19 (4) Hunting or trapping under a valid license issued to the person
20 under Title 77 RCW;

21 (5) In an area where the discharge of a firearm is permitted, is
22 not trespassing, and the person either: (a) Is at least fifteen years
23 of age, has been issued a hunter safety certificate, and is using a
24 lawful firearm other than a pistol; or (b) is under the supervision of
25 a parent, guardian, or other adult approved for the purpose by the
26 parent or guardian;

27 (6) Traveling with any unloaded firearm in the person's possession
28 to or from any activity described in subsection (1), (2), (3), (4), or
29 (5) of this section;

30 (7) On real property under the control of his or her parent, other
31 relative, or legal guardian and who has the permission of the parent or
32 legal guardian to possess a firearm;

33 (8) At his or her residence and who, with the permission of his or
34 her parent or legal guardian, possesses a firearm for the purpose of
35 exercising the rights specified in RCW 9A.16.020(3); or

36 (9) Is a member of the armed forces of the United States, national
37 guard, or organized reserves, when on duty.

1 NEW SECTION. **Sec. 104.** A new section is added to chapter 9.41 RCW
2 to read as follows:

3 (1)(a) At the time a person is convicted of, or adjudicated
4 delinquent for, an offense making the person ineligible to own,
5 possess, or control a firearm, or at the time a person is committed by
6 court order under RCW 71.05.320 or chapter 10.77 RCW for mental health
7 treatment, the convicting or committing court shall notify the person,
8 orally and in writing, that the person may not own, possess, or control
9 a firearm unless his or her right to do so is restored by a court of
10 record.

11 The convicting or committing court also shall forward a copy of the
12 person's driver's license or identicard, or comparable information, to
13 the department of licensing, along with the date of conviction or
14 commitment.

15 (b) Upon the expiration of fourteen days of treatment of a person
16 voluntarily committed, if the period of voluntary commitment is to
17 continue, the institution, hospital, or sanitarium shall notify the
18 person, orally and in writing, that the person may not own, possess, or
19 control a firearm unless his or her right to do so is restored by a
20 court of record.

21 Following fourteen continuous days of treatment, the institution,
22 hospital, or sanitarium also shall forward a copy of the person's
23 driver's license or identicard, or comparable information, to the
24 department of licensing, along with the date of voluntary commitment.

25 (2) Upon receipt of the information provided for by subsection (1)
26 of this section, the department of licensing shall determine if the
27 convicted or committed person has a concealed pistol license. If the
28 person does have a concealed pistol license, the department of
29 licensing shall immediately notify the license-issuing authority.

30 (3) A person who is prohibited from owning, possessing, or having
31 in his or her control a firearm by reason of having previously been
32 convicted on three occasions of driving a motor vehicle or operating a
33 vessel while under the influence of intoxicating liquor or any drug
34 may, after five continuous years without further conviction for any
35 alcohol-related offense, petition a court of record to have his or her
36 right to own, possess, or control a firearm restored.

37 (4)(a) A person who is prohibited from owning, possessing, or
38 having in his or her control a firearm, by reason of having been
39 either:

1 (i) Voluntarily committed for mental health treatment for a period
2 exceeding fourteen continuous days; or

3 (ii) Involuntarily committed for mental health treatment under RCW
4 71.05.320, chapter 10.77 RCW, or equivalent statutes of another
5 jurisdiction,

6 may, upon discharge, petition a court of record to have his or her
7 right to own, possess, or control a firearm restored.

8 (b) At a minimum, a petition under this subsection (4) shall
9 include the following:

10 (i) The fact, date, and place of commitment;

11 (ii) The place of treatment;

12 (iii) The fact and date of release from commitment;

13 (iv) A certified copy of the most recent order, if one exists, of
14 commitment, with the findings of fact and conclusions of law; and

15 (v) A statement by the person that he or she is no longer required
16 to participate in an inpatient or outpatient treatment program, is no
17 longer required to take medication to treat any condition related to
18 the commitment, and does not present a substantial danger to himself or
19 herself, to others, or to the public safety.

20 (c) A person petitioning the court under this subsection (4) shall
21 bear the burden of proving by a preponderance of the evidence that the
22 circumstances resulting in the commitment no longer exist and are not
23 reasonably likely to recur.

24 **Sec. 105.** RCW 9.41.045 and 1991 c 221 s 1 are each amended to read
25 as follows:

26 As a sentence condition and requirement, offenders under the
27 supervision of the department of corrections pursuant to chapter 9.94A
28 RCW shall not own, use, or possess firearms (~~(or ammunition)~~). In
29 addition to any penalty imposed pursuant to RCW 9.41.040 when
30 applicable, offenders found to be in actual or constructive possession
31 of firearms (~~(or ammunition)~~) shall be subject to the appropriate
32 violation process and sanctions as provided for in RCW 9.94A.200.
33 Firearms (~~(or ammunition)~~) owned, used, or possessed by offenders may
34 be confiscated by community corrections officers and turned over to the
35 Washington state patrol for disposal as provided in RCW 9.41.098.

36 **Sec. 106.** RCW 9.41.050 and 1982 1st ex.s. c 47 s 3 are each
37 amended to read as follows:

1 (1) Except in the person's place of abode or fixed place of
2 business, a person shall not carry a pistol concealed on his or her
3 person without a license to carry a concealed weapon.

4 (2) A person who is in possession of an unloaded pistol shall not
5 leave the unloaded pistol in a vehicle unless the unloaded pistol is
6 locked within the vehicle and concealed from view from outside the
7 vehicle.

8 (3) A person shall not carry or place a loaded pistol in any
9 vehicle unless the person has a license to carry a concealed weapon
10 and: (a) The pistol is on the licensee's person, (b) the licensee is
11 within the vehicle at all times that the pistol is there, or (c) the
12 licensee is away from the vehicle and the pistol is locked within the
13 vehicle and concealed from view from outside the vehicle.

14 (4) Except as otherwise provided in this section, no person at
15 least eighteen years of age may carry a firearm unless it is unloaded
16 and enclosed in an opaque case or secure wrapper or the person is:

17 (a) Licensed under RCW 9.41.070 to carry a concealed pistol and the
18 firearm is a pistol;

19 (b) In attendance at a hunter's safety course or a firearms safety
20 course;

21 (c) Engaging in practice in the use of a firearm or target shooting
22 at an established range authorized by the governing body of the
23 jurisdiction in which such range is located or any other area where the
24 discharge of a firearm is not prohibited;

25 (d) Engaging in an organized competition involving the use of a
26 firearm, or participating in or practicing for a performance by an
27 organized group that uses firearms as a part of the performance;

28 (e) Hunting or trapping under a valid license issued to the person
29 under Title 77 RCW;

30 (f) In an area where the discharge of a firearm is permitted, and
31 is not trespassing;

32 (g) Travelling with any firearm in the person's possession to or
33 from any activity described in (b), (c), (d), (e), or (f) of this
34 subsection, except as provided in (h) of this subsection;

35 (h) Travelling in a motor vehicle with a firearm, other than a
36 pistol, that is unloaded and locked in the trunk or other compartment
37 of the vehicle, secured in a gun rack, or otherwise secured in place in
38 a vehicle;

- 1 (i) On real property under the control of the person or a relative
2 of the person;
3 (j) At his or her residence;
4 (k) Is a member of the armed forces of the United States, national
5 guard, or organized reserves, when on duty; or
6 (l) Is a law enforcement officer.
7 (5) Unless an exception under section 103 of this act applies, a
8 person at least eighteen years of age, but less than twenty-one years
9 of age, may possess a pistol only:
10 (a) In the person's place of abode;
11 (b) At the person's fixed place of business; or
12 (c) On real property under his or her control.
13 (6) Nothing in this section permits the possession of firearms
14 illegal to possess under state or federal law.

15 **Sec. 107.** RCW 9.41.060 and 1961 c 124 s 5 are each amended to read
16 as follows:

17 The provisions of RCW 9.41.050 shall not apply to:

- 18 (1) Marshals, sheriffs, prison or jail wardens or their deputies,
19 ((policemen)) or other law enforcement officers((, or to));
20 (2) Law enforcement officers retired for service or retired for
21 physical disability;
22 (3) Members of the ((army, navy or marine corps)) armed forces of
23 the United States or of the national guard or organized reserves, when
24 on duty((, or to));
25 (4) Officers or employees of the United States duly authorized to
26 carry a concealed pistol;
27 (5) Any person engaged in the business of manufacturing, repairing,
28 or dealing in firearms, or the agent or representative of the person,
29 if possessing, using, or carrying a pistol in the usual or ordinary
30 course of the business;
31 (6) Regularly enrolled members of any organization duly authorized
32 to purchase or receive ((such weapons)) pistols from the United States
33 or from this state((, or to));
34 (7) Regularly enrolled members of clubs organized for the purpose
35 of target shooting ((or)), when those members are at or are going to or
36 from their places of target practice;
37 (8) Regularly enrolled members of clubs organized for the purpose
38 of modern and antique firearm collecting ((or to)), when those members

1 are at or are going to or from their collector's gun shows and
2 exhibits;

3 ~~(9) Individual hunters((:— PROVIDED, Such members are at, or are~~
4 ~~going to or from their places of target practice, or their collector's~~
5 ~~gun shows and exhibits, or are on a hunting, camping or fishing trip,~~
6 ~~or to officers or employees of the United States duly authorized to~~
7 ~~carry a concealed pistol, or to any person engaged in the business of~~
8 ~~manufacturing, repairing, or dealing in firearms or the agent or~~
9 ~~representative of any such person having in his possession, using, or~~
10 ~~carrying a pistol in the usual or ordinary course of such business, or~~
11 ~~to)) when on a hunting, camping, or fishing trip; or~~

12 ~~(10) Any person while carrying a pistol unloaded and in a closed~~
13 ~~opaque case or secure wrapper ((from the place of purchase to his home~~
14 ~~or place of business or to a place of repair or back to his home or~~
15 ~~place of business or in moving from one place of abode or business to~~
16 ~~another)).~~

17 **Sec. 108.** RCW 9.41.070 and 1992 c 168 s 1 are each amended to read
18 as follows:

19 (1) The judge of a court of record, the chief of police of a
20 municipality, or the sheriff of a county, shall within thirty days
21 after the filing of an application of any person issue a license to
22 such person to carry a pistol concealed on his or her person within
23 this state for four years from date of issue, for the purposes of
24 protection or while engaged in business, sport, or while traveling.
25 However, if the applicant does not have a valid permanent Washington
26 driver's license or Washington state identification card or has not
27 been a resident of the state for the previous consecutive ninety days,
28 the issuing authority shall have up to sixty days after the filing of
29 the application to issue a license. The issuing authority shall accept
30 applications for concealed pistol licenses during normal business
31 hours.

32 ~~((Such))~~ The applicant's constitutional right to bear arms shall
33 not be denied, unless he or she:

34 (a) Is ineligible to own a ~~((pistol))~~ firearm under the provisions
35 of RCW 9.41.040; ~~((or))~~

36 (b) Is under twenty-one years of age; ~~((or))~~

1 (c) Is subject to a court order or injunction regarding firearms
2 pursuant to RCW 10.99.040, 10.99.045, ~~((or))~~ 26.09.060, or 26.10.115;
3 ~~((or))~~

4 (d) Is free on bond or personal recognizance pending trial, appeal,
5 or sentencing for a crime of violence; ~~((or))~~

6 (e) Has an outstanding warrant for his or her arrest from any court
7 of competent jurisdiction for a felony or misdemeanor; ~~((or))~~

8 (f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d)
9 within one year before filing an application to carry a pistol
10 concealed on his or her person; or

11 (g)(i) Has been convicted or as a juvenile adjudicated delinquent
12 of any ~~((of the following offenses: Assault in the third degree,~~
13 ~~indecent liberties, malicious mischief in the first degree, possession~~
14 ~~of stolen property in the first or second degree, or theft in the first~~
15 ~~or second degree. Any)) crime against a child or other person listed~~
16 in RCW 43.43.830(5).

17 (ii) Except as provided in (g)(iii) of this subsection, any person
18 who becomes ineligible for a concealed pistol permit as a result of a
19 conviction for a crime listed in ~~((this subsection (1)))(g)(i) of this~~
20 subsection and then successfully completes all terms of his or her
21 sentence, as evidenced by a certificate of discharge issued under RCW
22 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has
23 not again been convicted of any crime and is not under indictment for
24 any crime, may, one year or longer after such successful sentence
25 completion, petition ~~((the district))~~ a court of record for a
26 declaration that the person is no longer ineligible for a concealed
27 pistol permit under ~~((this subsection (1)))(g)(i) of this subsection.~~

28 (iii) No person convicted of a crime of violence as defined in RCW
29 9.41.010 may have his or her right to own, possess, or control firearms
30 restored, unless the person has been granted relief from disabilities
31 by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW
32 9.41.040(4) applies.

33 (2) The issuing authority shall check with the Washington state
34 patrol electronic data base, the department of social and health
35 services electronic data base, and with other agencies or resources as
36 appropriate, to determine whether the applicant is ineligible under RCW
37 9.41.040 to own, possess, or control a pistol and therefore ineligible
38 for a concealed pistol license. This subsection applies whether the

1 applicant is applying for a new concealed pistol license or to renew a
2 concealed pistol license.

3 (3) Any person whose firearms rights have been restricted and who
4 has been granted relief from disabilities by the secretary of the
5 treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C.
6 Sec. 921(a)(20)(A) shall have his or her right to acquire, receive,
7 transfer, ship, transport, carry, and possess firearms in accordance
8 with Washington state law restored except as otherwise prohibited by
9 this chapter.

10 ~~((3) The license shall be revoked by the issuing authority~~
11 ~~immediately upon conviction of a crime which makes such a person~~
12 ~~ineligible to own a pistol or upon the third conviction for a violation~~
13 ~~of this chapter within five calendar years.~~

14 (4) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the
15 issuing authority shall:

16 (a) On the first forfeiture, revoke the license for one year;

17 (b) On the second forfeiture, revoke the license for two years;

18 (c) On the third or subsequent forfeiture, revoke the license for
19 five years.

20 Any person whose license is revoked as a result of a forfeiture of a
21 firearm under RCW 9.41.098(1)(d) may not reapply for a new license
22 until the end of the revocation period. The issuing authority shall
23 notify, in writing, the department of licensing upon revocation of a
24 license. The department of licensing shall record the revocation.

25 ~~(5))~~ (4) The license shall be in triplicate, in form to be
26 prescribed by the department of licensing, and shall bear the name,
27 address, and description, fingerprints, and signature of the licensee,
28 and the licensee's driver's license number or state identification card
29 number if used for identification in applying for the license. A
30 signed application for a concealed pistol license shall constitute a
31 waiver of confidentiality and written request that the department of
32 social and health services, mental health institutions, and other
33 health care facilities release information relevant to the applicant's
34 eligibility for a concealed pistol license to an inquiring court or law
35 enforcement agency.

36 The license application shall contain a warning substantially as
37 follows:

38 CAUTION: Although state and local laws do not differ, federal
39 law and state law on the possession of firearms differ. If you

1 are prohibited by federal law from possessing a firearm, you
2 may be prosecuted in federal court. A state license is not a
3 defense to a federal prosecution.

4 The license application shall contain a description of the major
5 differences between state and federal law and an explanation of the
6 fact that local laws and ordinances on firearms are preempted by state
7 law and must be consistent with state law. The application shall
8 contain questions about the applicant's eligibility under RCW 9.41.040
9 to own, possess, or control a pistol, the applicant's place of birth,
10 whether the applicant is a United States citizen, and if not a citizen
11 whether the applicant has declared the intent to become a citizen and
12 whether he or she has been required to register with the state or
13 federal government and any identification or registration number, if
14 applicable. The applicant shall not be required to produce a birth
15 certificate or other evidence of citizenship. An applicant who is not
16 a citizen shall provide documentation showing resident alien status and
17 the applicant's intent to become a citizen. (~~(A person who makes a~~
18 ~~false statement regarding citizenship on the application is guilty of~~
19 ~~a misdemeanor.)) A person who is not a citizen of the United States,~~
20 or has not declared his or her intention to become a citizen shall meet
21 the additional requirements of RCW 9.41.170.

22 The original thereof shall be delivered to the licensee, the
23 duplicate shall within seven days be sent by registered mail to the
24 director of licensing and the triplicate shall be preserved for six
25 years, by the authority issuing said license.

26 The department of licensing shall make available to law enforcement
27 and corrections agencies, in an on-line format, all information
28 received under this subsection.

29 ~~((+6))~~ (5) The fee for the original issuance of a four-year
30 license shall be ~~((twenty-three))~~ sixty-five dollars(~~(:—PROVIDED,~~
31 ~~That)).~~ No other ~~((additional charges by any))~~ branch or unit of
32 government ~~((shall be borne by))~~ may impose any additional charges on
33 the applicant for the issuance of the license(~~(:—PROVIDED FURTHER,~~
34 ~~That)).~~ The fee shall be distributed as follows:

35 (a) ~~((Four))~~ Twenty-five dollars shall be paid to the state general
36 fund;

37 (b) ~~((Four))~~ Ten dollars shall be paid to the agency taking the
38 fingerprints of the person licensed;

1 (c) (~~Twelve~~) Twenty dollars shall be paid to the issuing
2 authority for the purpose of enforcing this chapter; and

3 (d) (~~Three~~) Ten dollars to the firearms range account in the
4 general fund.

5 (~~(+7)~~) (6) The fee for the renewal of such license shall be
6 (~~fifteen~~) fifty-five dollars(~~(:—PROVIDED, That)~~). No other
7 (~~additional charges by any~~) branch or unit of government (~~shall be~~
8 ~~borne by~~) may impose any additional charges on the applicant for the
9 renewal of the license(~~(:—PROVIDED FURTHER, That)~~). The renewal fee
10 shall be distributed as follows:

11 (a) (~~Four~~) Twenty-five dollars shall be paid to the state general
12 fund;

13 (b) (~~Eight~~) Twenty dollars shall be paid to the issuing authority
14 for the purpose of enforcing this chapter; and

15 (c) (~~Three~~) Ten dollars to the firearms range account in the
16 general fund.

17 (~~(+8)~~) (7) Payment shall be by cash, check, or money order at the
18 option of the applicant. Additional methods of payment may be allowed
19 at the option of the issuing authority.

20 (~~(+9)~~) (8) A licensee may renew a license if the licensee applies
21 for renewal within ninety days before or after the expiration date of
22 the license. A license so renewed shall take effect on the expiration
23 date of the prior license. A licensee renewing after the expiration
24 date of the license must pay a late renewal penalty of (~~ten~~) twenty
25 dollars in addition to the renewal fee specified in subsection (~~(+7)~~)
26 (6) of this section. The fee shall be distributed as follows:

27 (a) (~~Three~~) Ten dollars shall be deposited in the state wildlife
28 fund and used exclusively for the printing and distribution of a
29 pamphlet on the legal limits of the use of firearms, firearms safety,
30 and the preemptive nature of state law. The pamphlet shall be given to
31 each applicant for a license; and

32 (b) (~~Seven~~) Ten dollars shall be paid to the issuing authority
33 for the purpose of enforcing this chapter.

34 (~~(+10)~~) (9) Notwithstanding the requirements of subsections (1)
35 through (~~(+9)~~) (8) of this section, the chief of police of the
36 municipality or the sheriff of the county of the applicant's residence
37 may issue a temporary emergency license for good cause pending review
38 under subsection (1) of this section.

1 (~~(11)~~) (10) A political subdivision of the state shall not modify
2 the requirements of this section or chapter, nor may a political
3 subdivision ask the applicant to voluntarily submit any information not
4 required by this section. (~~(A civil suit may be brought to enjoin a~~
5 ~~wrongful refusal to issue a license or a wrongful modification of the~~
6 ~~requirements of this section or chapter. The civil suit may be brought~~
7 ~~in the county in which the application was made or in Thurston county~~
8 ~~at the discretion of the petitioner. Any person who prevails against~~
9 ~~a public agency in any action in the courts for a violation of this~~
10 ~~chapter shall be awarded costs, including reasonable attorneys' fees,~~
11 ~~incurred in connection with such legal action.))~~

12 (11) A person who knowingly makes a false statement regarding
13 citizenship or identity on an application for a concealed pistol
14 license is guilty of false swearing under RCW 9A.72.040. In addition
15 to any other penalty provided for by law, the concealed pistol license
16 of a person who knowingly makes a false statement shall be revoked, and
17 the person shall be permanently ineligible for a concealed pistol
18 license.

19 NEW SECTION. Sec. 109. A new section is added to chapter 9.41 RCW
20 to read as follows:

21 (1) The license shall be revoked by the license-issuing authority
22 immediately upon:

23 (a) Discovery by the issuing authority that the person was
24 ineligible under RCW 9.41.070 for a concealed pistol license when
25 applying for the license or license renewal;

26 (b) Conviction of the licensee of an offense, or commitment of the
27 licensee for mental health treatment, that makes a person ineligible
28 under RCW 9.41.040 to own, possess, or control a firearm;

29 (c) Conviction of the licensee for a third violation of this
30 chapter within five calendar years; or

31 (d) An order that the licensee forfeit a firearm under RCW
32 9.41.098(1)(d).

33 (2)(a) Unless the person may lawfully possess a pistol without a
34 concealed pistol license, an ineligible person to whom a concealed
35 pistol license was issued shall, within fourteen days of license
36 revocation, lawfully transfer ownership of any pistol acquired while
37 the person was in possession of the license.

1 (b) Upon discovering a person issued a concealed pistol license was
2 ineligible for the license, the issuing authority shall contact the
3 department of licensing to determine whether the person purchased a
4 pistol while in possession of the license. If the person did purchase
5 a pistol while in possession of the concealed pistol license, if the
6 person may not lawfully possess a pistol without a concealed pistol
7 license, the issuing authority shall require the person to present
8 satisfactory evidence of having lawfully transferred ownership of the
9 pistol. The issuing authority shall require the person to produce the
10 evidence within fifteen days of the revocation of the license.

11 (3) When a licensee is ordered to forfeit a firearm under RCW
12 9.41.098(1)(d), the issuing authority shall:

13 (a) On the first forfeiture, revoke the license for one year;

14 (b) On the second forfeiture, revoke the license for two years; or

15 (c) On the third or subsequent forfeiture, revoke the license for
16 five years.

17 Any person whose license is revoked as a result of a forfeiture of
18 a firearm under RCW 9.41.098(1)(d) may not reapply for a new license
19 until the end of the revocation period.

20 (4) The issuing authority shall notify, in writing, the department
21 of licensing of the revocation of a license. The department of
22 licensing shall record the revocation.

23 **Sec. 110.** RCW 9.41.080 and 1935 c 172 s 8 are each amended to read
24 as follows:

25 No person shall deliver a (~~pistol~~) firearm to any person (~~under~~
26 ~~the age of twenty one or to one~~) who he or she has reasonable cause to
27 believe (~~has been convicted of a crime of violence, or is a drug~~
28 ~~addict, an habitual drunkard, or of unsound mind~~) is ineligible under
29 RCW 9.41.040 to own, possess, or control a firearm. Any person
30 violating this section is guilty of a class C felony, punishable under
31 chapter 9A.20 RCW.

32 **Sec. 111.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read
33 as follows:

34 (1) In addition to the other requirements of this chapter, no
35 (~~commercial seller shall~~) dealer may deliver a pistol to the
36 purchaser thereof until:

1 (a) The purchaser produces a valid concealed pistol license and the
2 (~~commercial seller~~) dealer has recorded the purchaser's name, license
3 number, and issuing agency, such record to be made in triplicate and
4 processed as provided in subsection ~~((4))~~ (5) of this section; ~~((or))~~

5 (b) The ~~((seller))~~ dealer is notified in writing by the chief of
6 police of the municipality or the sheriff of the county that the
7 purchaser ~~((meets the requirements of))~~ is eligible to possess a pistol
8 under RCW 9.41.040 and that the application to purchase is granted.
9 However, if the purchaser is under twenty-one years of age, the dealer
10 shall deliver the pistol to the purchaser unloaded and securely
11 wrapped; or

12 (c) Five ~~((consecutive))~~ business days ~~((including Saturday, Sunday~~
13 ~~and holidays))~~, meaning days on which state offices are open, have
14 elapsed from the time of receipt of the application for the purchase
15 thereof as provided herein by the chief of police or sheriff designated
16 in subsection ~~((4))~~ (5) of this section, and, when delivered, said
17 pistol shall be securely wrapped and shall be unloaded. However, if
18 the purchaser does not have a valid permanent Washington driver's
19 license or state identification card or has not been a resident of the
20 state for the previous consecutive ninety days, the waiting period
21 under this subsection (1)(c) shall be up to sixty days.

22 (2)(a) Except as provided in (b) of this subsection, in determining
23 whether the purchaser meets the requirements of RCW 9.41.040, the chief
24 of police or sheriff, or the designee of either, shall check with the
25 Washington state patrol electronic data base, the department of social
26 and health services electronic data base, and with other agencies or
27 resources as appropriate, to determine whether the applicant is
28 ineligible under RCW 9.41.040 to own, possess, or control a pistol.

29 (b) Once the system is established, a dealer shall use the national
30 instant criminal background check system, provided for by the Brady
31 Handgun Control Act (H.R. 1025, 103rd Cong., 1st Sess. (1993)), to make
32 criminal background checks of applicants to purchase pistols. However,
33 a chief of police or sheriff, or a designee of either, shall continue
34 to check the department of social and health services' electronic data
35 base and with other agencies or resources as appropriate, to determine
36 whether applicants are ineligible under RCW 9.41.040 to own, possess,
37 or control a pistol.

38 (3) In any case under subsection (1)(c) of this section where the
39 applicant has an outstanding warrant for his or her arrest from any

1 court of competent jurisdiction for a felony or misdemeanor, the
2 ((seller)) dealer shall hold the delivery of the pistol until the
3 warrant for arrest is served and satisfied by appropriate court
4 appearance. The local jurisdiction for purposes of the sale shall
5 confirm the existence of outstanding warrants within seventy-two hours
6 after notification of the application to purchase a pistol is received.
7 The local jurisdiction shall also immediately confirm the satisfaction
8 of the warrant on request of the ((seller)) dealer so that the hold may
9 be released if the warrant was for ((a crime other than a crime of
10 violence)) an offense other than an offense making a person ineligible
11 under RCW 9.41.040 to possess a pistol.

12 ((+3)) (4) In any case where the chief or sheriff of the local
13 jurisdiction has reasonable grounds based on the following
14 circumstances: (a) Open criminal charges, (b) pending criminal
15 proceedings, (c) pending commitment proceedings, (d) an outstanding
16 warrant for ((a crime of violence, or (e) an arrest for a crime of
17 violence)) an offense making a person ineligible under RCW 9.41.040 to
18 possess a pistol, or (e) an arrest for an offense making a person
19 ineligible under RCW 9.41.040 to possess a pistol, if the records of
20 disposition have not yet been reported or entered sufficiently to
21 determine eligibility to purchase a pistol, the local jurisdiction may
22 hold the sale and delivery of the pistol beyond five days up to thirty
23 days in order to confirm existing records in this state or elsewhere.
24 After thirty days, the hold will be lifted unless an extension of the
25 thirty days is approved by a local district court or municipal court
26 for good cause shown. An applicant shall be notified of each hold
27 placed on the sale by local law enforcement and of any application to
28 the court for additional hold period to confirm records or confirm the
29 identity of the applicant.

30 ((+4)) (5) At the time of applying for the purchase of a pistol,
31 the purchaser shall sign in triplicate and deliver to the ((seller))
32 dealer an application containing his or her full name, address, place
33 of birth, and the date and hour of the application; the applicant's
34 driver's license number or state identification card number; and a
35 description of the weapon including, the make, model, caliber and
36 manufacturer's number; and a statement that the purchaser is eligible
37 to own a pistol under RCW 9.41.040.

38 The application shall contain a warning substantially as follows:

1 CAUTION: Although state and local laws do not differ, federal
2 law and state law on the possession of firearms differ. If you
3 are prohibited by federal law from possessing a firearm, you
4 may be prosecuted in federal court. State permission to
5 purchase a firearm is not a defense to a federal prosecution.

6 The purchaser shall be given a copy of the department of fish and
7 wildlife pamphlet on the legal limits of the use of firearms, firearms
8 safety, and the fact that local laws and ordinances on firearms are
9 preempted by state law and must be consistent with state law.

10 The ((seller)) dealer shall, by the end of the business day, sign
11 and attach his or her address and deliver the original of the
12 application and such other documentation as required under subsection
13 (1) of this section to the chief of police of the municipality or the
14 sheriff of the county of which the ((seller)) dealer is a resident.
15 The ((seller)) dealer shall deliver the pistol to the purchaser
16 following the period of time specified in this section unless the
17 ((seller)) dealer is notified in writing by the chief of police of the
18 municipality or the sheriff of the county, whichever is applicable,
19 denying the purchaser's application to purchase and the grounds
20 thereof. The application shall not be denied unless the purchaser
21 fails to meet the requirements specified in RCW 9.41.040. ((The chief
22 of police of the municipality or the county sheriff shall maintain a
23 file containing the original of the application to purchase a pistol.))

24 The chief of police of the municipality or the sheriff of the
25 county shall retain or destroy applications to purchase a pistol in
26 accordance with the requirements of 18 U.S.C. Sec. 922.

27 (6) A person who knowingly makes a false statement regarding
28 identity or eligibility requirements on the application to purchase a
29 pistol is guilty of false swearing under RCW 9A.72.040.

30 (7) This section does not apply to sales to licensed dealers for
31 resale or to the sale of antique firearms.

32 NEW SECTION. Sec. 112. A new section is added to chapter 9.41 RCW
33 to read as follows:

34 A signed application to purchase a pistol shall constitute a waiver
35 of confidentiality and written request that the department of social
36 and health services, mental health institutions, and other health care
37 facilities release, to an inquiring court or law enforcement agency,

1 information relevant to the applicant's eligibility to purchase a
2 pistol to an inquiring court or law enforcement agency.

3 **Sec. 113.** RCW 9.41.097 and 1983 c 232 s 5 are each amended to read
4 as follows:

5 (1) The department of social and health services, mental health
6 institutions, and other health care facilities shall, upon request of
7 a court or law enforcement agency, supply such relevant information as
8 is necessary to determine the eligibility of a person to possess a
9 pistol or to be issued a concealed pistol license under RCW 9.41.070 or
10 to purchase a pistol under RCW 9.41.090. ((Such information shall be
11 used exclusively for the purposes specified in this section and shall
12 not be made available for public inspection except by the person who is
13 the subject of the information.))

14 (2) Information received by: (a) The department of licensing
15 pursuant to section 104 of this act; (b) an issuing authority pursuant
16 to section 104 of this act or RCW 9.41.070; (c) a chief of police or
17 sheriff pursuant to RCW 9.41.090; (d) a court or law enforcement agency
18 pursuant to subsection (1) of this section, concerning the mental
19 health history of a person, shall not be disclosed except as provided
20 in RCW 42.17.318.

21 **NEW SECTION. Sec. 114.** A new section is added to chapter 9.41 RCW
22 to follow RCW 9.41.097 to read as follows:

23 (1) The state, local governmental entities, any public or private
24 agency, and the employees of any state or local governmental entity or
25 public or private agency, acting in good faith, are immune from
26 liability:

27 (a) For failure to prevent the sale or transfer of a firearm to a
28 person whose receipt or possession of the firearm is unlawful;

29 (b) For preventing the sale or transfer of a firearm to a person
30 who may lawfully receive or possess a firearm;

31 (c) For issuing a concealed pistol license to a person ineligible
32 for such a license;

33 (d) For failing to issue a concealed pistol license to a person
34 eligible for such a license;

35 (e) For revoking or failing to revoke an issued concealed pistol
36 license; or

1 (f) For errors in preparing or transmitting information as part of
2 determining a person's eligibility to receive or possess a firearm, or
3 eligibility for a concealed pistol license.

4 (2) A suit may be brought for a writ of mandamus:

5 (a) Directing an issuing agency to issue a concealed pistol license
6 wrongfully refused; or

7 (b) Directing that erroneous information resulting either in the
8 wrongful refusal to issue a concealed pistol license or in the wrongful
9 denial of a purchase application be corrected.

10 The suit may be brought in the county in which the application for
11 a concealed pistol license or to purchase a pistol was made, or in
12 Thurston county, at the discretion of the petitioner. A court shall
13 provide an expedited hearing for a suit brought under this subsection
14 (2) for a writ of mandamus. A person who prevails against a public
15 agency in a suit brought under this subsection (2) shall be awarded
16 reasonable attorneys' fees and costs.

17 **Sec. 115.** RCW 9.41.098 and 1993 c 243 s 1 are each amended to read
18 as follows:

19 (1) The superior courts and the courts of limited jurisdiction of
20 the state may order forfeiture of a firearm which is proven to be:

21 (a) Found concealed on a person not authorized by RCW 9.41.060 or
22 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute
23 defense to forfeiture if the person possessed a valid Washington
24 concealed pistol license within the preceding two years and has not
25 become ineligible for a concealed pistol license in the interim.
26 Before the firearm may be returned, the person must pay the past due
27 renewal fee and the current renewal fee;

28 (b) Commercially sold to any person without an application as
29 required by RCW 9.41.090;

30 (c) Found in the possession of a person prohibited from possessing
31 the firearm under RCW 9.41.040;

32 (d) Found in the possession or under the control of a person at the
33 time the person committed or was arrested for committing a crime of
34 violence or a crime in which a firearm was used or displayed or a
35 felony violation of the Uniform Controlled Substances Act, chapter
36 69.50 RCW;

37 ~~((d))~~ (e) Found concealed on a person who is in any place in
38 which a concealed pistol license is required, and who is under the

1 influence of any drug or under the influence of intoxicating liquor,
2 (~~having 0.10 grams or more of alcohol per two hundred ten liters of~~
3 ~~breath or 0.10 percent or more by weight of alcohol in the person's~~
4 ~~blood, as shown by analysis of the person's breath, blood, or other~~
5 ~~bodily substance)) as defined in chapter 46.61 RCW;~~

6 (~~(e) Found in the possession of a person prohibited from~~
7 ~~possessing the firearm under RCW 9.41.040;~~)

8 (f) Found in the possession of a person free on bail or personal
9 recognizance pending trial, appeal, or sentencing for a crime of
10 violence or a crime in which a firearm was used or displayed, except
11 that violations of Title 77 RCW shall not result in forfeiture under
12 this section;

13 (g) Found in the possession of a person found to have been mentally
14 incompetent while in possession of a firearm when apprehended or who is
15 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

16 (h) Known to have been used or displayed by a person in the
17 violation of a proper written order of a court of general jurisdiction;
18 or

19 (i) Known to have been used in the commission of a crime of
20 violence or a crime in which a firearm was used or displayed or a
21 felony violation of the (~~Uniformed [Uniform]~~) Uniform Controlled
22 Substances Act, chapter 69.50 RCW.

23 (2) Upon order of forfeiture, the court in its discretion shall
24 order destruction of any firearm that is illegal for any person to
25 possess. A court may temporarily retain forfeited firearms needed for
26 evidence.

27 (a) Except as provided in (b), (c), and (d) of this subsection,
28 firearms that are: (i) Judicially forfeited and no longer needed for
29 evidence; or (ii) forfeited due to a failure to make a claim under RCW
30 63.32.010 or 63.40.010; may be disposed of in any manner determined by
31 the local legislative authority. Any proceeds of an auction or trade
32 may be retained by the legislative authority. This subsection (2)(a)
33 applies only to firearms that come into the possession of the law
34 enforcement agency after June 30, 1993, and applies only if the law
35 enforcement agency has complied with (b) of this subsection.

36 By midnight, June 30, 1993, every law enforcement agency shall
37 prepare an inventory, under oath, of every firearm that has been
38 judicially forfeited, has been seized and may be subject to judicial

1 forfeiture, or that has been, or may be, forfeited due to a failure to
2 make a claim under RCW 63.32.010 or 63.40.010.

3 (b) Except as provided in (c) of this subsection, of the
4 inventoried firearms a law enforcement agency shall destroy illegal
5 firearms, may retain a maximum of ten percent of legal forfeited
6 firearms for agency use, and shall either:

7 (i) Comply with the provisions for the auction of firearms in RCW
8 9.41.098 that were in effect immediately preceding May 7, 1993; or

9 (ii) Trade, auction, or arrange for the auction of, rifles and
10 shotguns. In addition, the law enforcement agency shall either trade,
11 auction, or arrange for the auction of, short firearms, or shall pay a
12 fee of twenty-five dollars to the state treasurer for every short
13 firearm neither auctioned nor traded, to a maximum of fifty thousand
14 dollars. The fees shall be accompanied by an inventory, under oath, of
15 every short firearm listed in the inventory required by (a) of this
16 subsection, that has been neither traded nor auctioned. The state
17 treasurer shall credit the fees to the firearms range account
18 established in RCW 77.12.720. All trades or auctions of firearms under
19 this subsection shall be to ~~((commercial sellers))~~ licensed dealers.
20 Proceeds of any auction less costs, including actual costs of storage
21 and sale, shall be forwarded to the firearms range account established
22 in RCW 77.12.720.

23 (c) Antique firearms ~~((as defined by RCW 9.41.150))~~ and firearms
24 recognized as curios, relics, and firearms of particular historical
25 significance by the United States treasury department bureau of
26 alcohol, tobacco, and firearms are exempt from destruction and shall be
27 disposed of by auction or trade to ~~((commercial sellers))~~ licensed
28 dealers.

29 (d) Firearms in the possession of the Washington state patrol on or
30 after May 7, 1993, that are judicially forfeited and no longer needed
31 for evidence, or forfeited due to a failure to make a claim under RCW
32 63.35.020, must be disposed of as follows: (i) Firearms illegal for
33 any person to possess must be destroyed; (ii) the Washington state
34 patrol may retain a maximum of ten percent of legal firearms for agency
35 use; and (iii) all other legal firearms must be auctioned or traded to
36 ~~((commercial sellers))~~ licensed dealers. The Washington state patrol
37 may retain any proceeds of an auction or trade.

38 (3) The court shall order the firearm returned to the owner upon a
39 showing that there is no probable cause to believe a violation of

1 subsection (1) of this section existed or the firearm was stolen from
2 the owner or the owner neither had knowledge of nor consented to the
3 act or omission involving the firearm which resulted in its forfeiture.

4 (4) A law enforcement officer of the state or of any county or
5 municipality may confiscate a firearm found to be in the possession of
6 a person under circumstances specified in subsection (1) of this
7 section. After confiscation, the firearm shall not be surrendered
8 except: (a) To the prosecuting attorney for use in subsequent legal
9 proceedings; (b) for disposition according to an order of a court
10 having jurisdiction as provided in subsection (1) of this section; or
11 (c) to the owner if the proceedings are dismissed or as directed in
12 subsection (3) of this section.

13 **Sec. 116.** RCW 9.41.100 and 1935 c 172 s 10 are each amended to
14 read as follows:

15 ~~((No retail))~~ Every dealer shall ~~((sell or otherwise transfer, or~~
16 ~~expose for sale or transfer, or have in his possession with intent to~~
17 ~~sell, or otherwise transfer, any pistol without being))~~ be licensed as
18 ~~((hereinafter))~~ provided in RCW 9.41.110 and shall register with the
19 department of revenue as provided in chapters 82.04 and 82.32 RCW.

20 **Sec. 117.** RCW 9.41.110 and 1979 c 158 s 2 are each amended to read
21 as follows:

22 The duly constituted licensing authorities of any city, town, or
23 political subdivision of this state shall grant licenses in forms
24 prescribed by the director of licensing effective for not more than one
25 year from the date of issue permitting the licensee to sell ~~((pistols))~~
26 firearms within this state subject to the following conditions, for
27 breach of any of which the license shall be forfeited and the licensee
28 subject to punishment as provided in RCW 9.41.010 through 9.41.160 (as
29 recodified by this act). A licensing authority shall forward a copy of
30 each license granted to the department of licensing. The department of
31 licensing shall notify the department of revenue of the name and
32 address of each dealer licensed under this section.

33 (1)(a) A licensing authority shall, within thirty days after the
34 filing of an application of any person for a dealer's license,
35 determine whether to grant the license. However, if the applicant does
36 not have a valid permanent Washington driver's license or Washington
37 state identification card, or has not been a resident of the state for

1 the previous consecutive ninety days, the licensing authority shall
2 have up to sixty days to determine whether to issue a license. No
3 person shall qualify for a license under this section without first
4 receiving a federal firearms license and undergoing fingerprinting and
5 a background check. In addition, no person ineligible to possess a
6 firearm under RCW 9.41.040 or ineligible for a concealed pistol license
7 under RCW 9.41.070 shall qualify for a dealer's license.

8 (b) A dealer shall require every employee who may sell a firearm in
9 the course of his or her employment to undergo fingerprinting and a
10 background check. An employee must be eligible to own, possess, or
11 control a firearm, and eligible for a concealed pistol license, before
12 being permitted to sell a firearm. Every employee shall comply with
13 requirements concerning purchase applications and restrictions on
14 delivery of pistols that are applicable to dealers.

15 (2)(a) Except as otherwise provided in (b) of this subsection, the
16 business shall be carried on only in the building designated in the
17 license. For the purpose of this section, advertising firearms for
18 sale shall not be considered the carrying on of business.

19 ((+2)) (b) A dealer may conduct business temporarily at a location
20 other than the building designated in the license, if the temporary
21 location is within Washington state and is the location of a gun show
22 sponsored by a national, state, or local organization, or an affiliate
23 of any such organization, devoted to the collection, competitive use,
24 or other sporting use of firearms in the community. Nothing in this
25 subsection (2)(b) authorizes a dealer to conduct business in or from a
26 motorized or towed vehicle.

27 In conducting business temporarily at a location other than the
28 building designated in the license, the dealer shall comply with all
29 other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and
30 9.41.110. The license of a dealer who fails to comply with the
31 requirements of RCW 9.41.080, 9.41.090, and 9.41.110(4) while
32 conducting business at a temporary location shall be revoked, and the
33 dealer shall be permanently ineligible for a dealer's license.

34 (3) The license or a copy thereof, certified by the issuing
35 authority, shall be displayed on the premises in the area where
36 firearms are sold, or at the temporary location, where it can easily be
37 read.

38 ((+3)) (4)(a) No pistol shall be sold ((+a)): (i) In violation
39 of any provisions of RCW 9.41.010 through 9.41.160((-)) (as recodified

1 by this act); nor ~~((b))~~ (ii) shall a pistol be sold under any
2 circumstances unless the purchaser is personally known to the
3 ~~((seller))~~ dealer or shall present clear evidence of his or her
4 identity.

5 ~~((4))~~ (b) A dealer who knowingly sells or delivers any firearm in
6 violation of RCW 9.41.080 is guilty of a class C felony. In addition
7 to any other penalty provided for by law, the dealer is subject to
8 mandatory permanent revocation of his or her dealer's license and
9 permanent ineligibility for a dealer's license.

10 (5)(a) A true record in triplicate shall be made of every pistol
11 sold, in a book kept for the purpose, the form of which may be
12 prescribed by the director of licensing and shall be personally signed
13 by the purchaser and by the person effecting the sale, each in the
14 presence of the other, and shall contain the date of sale, the caliber,
15 make, model and manufacturer's number of the weapon, the name, address,
16 occupation, ~~((eolr))~~ and place of birth of the purchaser and a
17 statement signed by the purchaser that he ~~((has never been convicted in~~
18 ~~this state or elsewhere of a crime of violence))~~ or she is not
19 ineligible under RCW 9.41.040 to possess a firearm.

20 (b) One copy shall within six hours be sent by ~~((registered))~~
21 certified mail to the chief of police of the municipality or the
22 sheriff of the county of which the dealer is a resident; the duplicate
23 the dealer shall within seven days send to the director of licensing;
24 the triplicate the dealer shall retain for six years.

25 ~~((5))~~ (6) Subsections (2) through (5) of this section shall not
26 apply to sales at wholesale.

27 ~~((6))~~ (7) The dealer's licenses authorized to be issued by this
28 section are general licenses covering all sales by the licensee within
29 the effective period of the licenses.

30 ~~((7))~~ (8) Except as provided in RCW 9.41.090 ~~((as now or~~
31 ~~hereinafter amended))~~, every city, town and political subdivision of
32 this state is prohibited from requiring the purchaser to secure a
33 permit to purchase or from requiring the dealer to secure an individual
34 permit for each sale.

35 The fee paid for issuing said license shall be ~~((five))~~ twenty-five
36 dollars which fee shall be paid into the state treasury.

37 NEW SECTION. Sec. 118. A new section is added to chapter 9.41 RCW
38 to read as follows:

1 The department of licensing may keep copies or records of
2 applications for concealed pistol licenses provided for in RCW
3 9.41.070, copies or records of applications to purchase pistols
4 provided for in RCW 9.41.090, and copies or records of pistol transfers
5 provided for in RCW 9.41.110. The copies and records shall not be
6 disclosed except as provided in RCW 42.17.318.

7 NEW SECTION. **Sec. 119.** A new section is added to chapter 9.41 RCW
8 to read as follows:

9 (1) At least once every twelve months, the department of licensing
10 shall obtain a list of federally licensed dealers with business
11 premises in the state of Washington from the United States bureau of
12 alcohol, tobacco, and firearms. The department of licensing shall
13 verify that all dealers on the list provided by the bureau of alcohol,
14 tobacco, and firearms are licensed and registered as required by RCW
15 9.41.100.

16 (2) At least once every twelve months, the department of licensing
17 shall obtain from the department of revenue a list of dealers
18 registered with the department of revenue whose gross proceeds of sales
19 are below the reporting threshold provided in RCW 82.04.300, and a list
20 of dealers whose names and addresses were forwarded to the department
21 of revenue by the department of licensing under RCW 9.41.110, who
22 failed to register with the department of revenue as required by RCW
23 9.41.100.

24 (3) At least once every twelve months, the department of licensing
25 shall notify the bureau of alcohol, tobacco, and firearms of all
26 federally licensed dealers with business premises in the state of
27 Washington who have not complied with the licensing or registration
28 requirements of RCW 9.41.100, or whose gross proceeds of sales are
29 below the reporting threshold provided in RCW 82.04.300. In notifying
30 the bureau of alcohol, tobacco, and firearms, the department of
31 licensing shall not specify whether a particular dealer has failed to
32 comply with licensing requirements, has failed to comply with
33 registration requirements, or has gross proceeds of sales below the
34 reporting threshold.

35 **Sec. 120.** RCW 9.41.140 and 1961 c 124 s 10 are each amended to
36 read as follows:

1 No person shall change, alter, remove, or obliterate the name of
2 the maker, model, manufacturer's number, or other mark of
3 identification on any (~~pistol~~) firearm. Possession of any (~~pistol~~)
4 firearm upon which any such mark shall have been changed, altered,
5 removed, or obliterated, shall be prima facie evidence that the
6 possessor has changed, altered, removed, or obliterated the same. This
7 section shall not apply to replacement barrels in old (~~revolvers~~)
8 firearms, which barrels are produced by current manufacturers and
9 therefor do not have the markings on the barrels of the original
10 manufacturers who are no longer in business.

11 **Sec. 121.** RCW 9.41.170 and 1979 c 158 s 3 are each amended to read
12 as follows:

13 (1) It shall be unlawful for any person who is not a citizen of the
14 United States, or who has not declared his or her intention to become
15 a citizen of the United States, to carry or have in his or her
16 possession at any time any shotgun, rifle, or other firearm, without
17 first having obtained a license from the director of licensing, and
18 such license is not to be issued by the director of licensing except
19 upon the certificate of the consul domiciled in the state and
20 representing the country of such alien, that (~~he~~) the alien is a
21 responsible person (~~and upon the payment for the license of the sum of~~
22 ~~fifteen dollars:—PROVIDED, That~~). The fee for the license shall be
23 twenty-five dollars, and the license shall be valid for four years from
24 the date of issue.

25 (2) This section shall not apply to Canadian citizens resident in
26 a province which has an enactment or public policy providing
27 substantially similar privilege to residents of the state of Washington
28 and who are carrying or possessing weapons for the purpose of using
29 them in the hunting of game while such persons are in the act of
30 hunting, or while on a hunting trip, or while such persons are
31 competing in a bona fide trap or skeet shoot or any other organized
32 contest where rifles, pistols, or shotguns are used as (~~to~~) weapons
33 (~~used~~) in such contest.

34 (3) Nothing in this section shall be construed to allow aliens to
35 hunt or fish in this state without first having obtained a regular
36 hunting or fishing license.

37 (4) Any person violating the provisions of this section shall be
38 guilty of a misdemeanor.

1 **Sec. 122.** RCW 9.41.190 and 1982 1st ex.s. c 47 s 2 are each
2 amended to read as follows:

3 (1) It is unlawful for any person to manufacture, own, buy, sell,
4 loan, furnish, transport, or have in possession or under control, any
5 machine gun, short-barreled shotgun, or short-barreled rifle, or any
6 part thereof capable of use; or assembling or repairing any machine
7 gun(~~(:—PROVIDED, HOWEVER, That such limitation)), short-barreled~~
8 shotgun, or short-barreled rifle.

9 (2) This section shall not apply to:

10 (a) Any peace officer in the discharge of official duty, or to any
11 officer or member of the armed forces of the United States or the state
12 of Washington(~~(:—PROVIDED FURTHER, That this section does not apply~~
13 to)) in the discharge of official duty; or

14 (b) A person, including an employee of such person if the employee
15 has undergone fingerprinting and a background check, who or which is
16 exempt from or licensed under the National Firearms Act (26 U.S.C.
17 section 5801 et seq.), and engaged in the production, manufacture,
18 repair, or testing of weapons or equipment (~~(to be used or purchased by~~
19 the armed forces of the United States, and having a United States
20 government industrial security clearance)):

21 (i) To be used or purchased by the armed forces of the United
22 States;

23 (ii) To be used or purchased by federal, state, county, or
24 municipal law enforcement agencies; or

25 (iii) For exportation in compliance with all applicable federal
26 laws and regulations.

27 (3) Nothing in subsection (2) of this section shall be construed as
28 permitting the possession, use, or control of a machine gun, short-
29 barreled rifle, or short-barreled shotgun by a person or entity not
30 otherwise authorized by law to do so.

31 (4) Any person violating this section is guilty of a class C
32 felony.

33 **Sec. 123.** RCW 9.41.220 and 1933 c 64 s 4 are each amended to read
34 as follows:

35 All machine guns, short-barreled shotguns, or short-barreled
36 rifles, or parts thereof, illegally held or illegally possessed are
37 hereby declared to be contraband, and it shall be the duty of all peace
38 officers, and/or any officer or member of the armed forces of the

1 United States or the state of Washington, to seize said machine gun,
2 short-barreled shotgun, or short-barreled rifle, or parts thereof,
3 wherever and whenever found.

4 **Sec. 124.** RCW 9.41.230 and 1909 c 249 s 307 are each amended to
5 read as follows:

6 ~~((Every))~~ (1) For conduct not amounting to a violation of chapter
7 9A.36 RCW, any person who ~~((shall))~~:

8 (a) Aims any ~~((gun, pistol, revolver or other))~~ firearm, whether
9 loaded or not, at or towards any human being~~((, or who shall))~~;

10 (b) Willfully discharges any firearm, air gun, or other weapon, or
11 throws any deadly missile in a public place, or in any place where any
12 person might be endangered thereby~~((, although no injury result, shall~~
13 be)); or

14 (c) Except as provided in RCW 9.41.185, sets a so-called trap,
15 spring pistol, rifle, or other dangerous weapon,
16 although no injury results, is guilty of a gross misdemeanor punishable
17 under chapter 9A.20 RCW.

18 (2) If an injury results from a violation of subsection (1) of this
19 section, the person violating subsection (1) of this section shall be
20 subject to the applicable provisions of chapters 9A.32 and 9A.36 RCW.

21 **Sec. 125.** RCW 9.41.250 and 1959 c 143 s 1 are each amended to read
22 as follows:

23 Every person who ~~((shall))~~:

24 (1) Manufactures, sells, or disposes of or ~~((have in his~~
25 possession)) possesses any instrument or weapon of the kind usually
26 known as slung shot, sand club, or metal knuckles, or spring blade
27 knife, or any knife the blade of which is automatically released by a
28 spring mechanism or other mechanical device, or any knife having a
29 blade which opens, or falls, or is ejected into position by the force
30 of gravity, or by an outward, downward, or centrifugal thrust or
31 movement; ~~((who shall))~~

32 (2) Furtively ~~((carry))~~ carries with intent to conceal any dagger,
33 dirk, pistol, or other dangerous weapon; or ~~((who shall))~~

34 (3) Uses any contrivance or device for suppressing the noise of any
35 firearm, ~~((shall be))~~
36 is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

1 **Sec. 126.** RCW 9.41.260 and 1909 c 249 s 283 are each amended to
2 read as follows:

3 Every proprietor, lessee, or occupant of any place of amusement, or
4 any plat of ground or building, who (~~shall~~) allows it to be used for
5 the exhibition of skill in throwing any sharp instrument or in shooting
6 any bow gun(~~(, pistol)~~) or firearm of any description, at or toward any
7 human being, (~~shall be~~) is guilty of a misdemeanor punishable under
8 chapter 9A.20 RCW.

9 **Sec. 127.** RCW 9.41.270 and 1969 c 8 s 1 are each amended to read
10 as follows:

11 (1) It shall be unlawful for (~~anyone~~) any person to carry,
12 exhibit, display, or draw any firearm, dagger, sword, knife or other
13 cutting or stabbing instrument, club, or any other weapon apparently
14 capable of producing bodily harm, in a manner, under circumstances, and
15 at a time and place that either manifests an intent to intimidate
16 another or that warrants alarm for the safety of other persons.

17 (2) Any person violating the provisions of subsection (1) above
18 shall be guilty of a gross misdemeanor.

19 (3) Subsection (1) of this section shall not apply to or affect the
20 following:

21 (a) Any act committed by a person while in his or her place of
22 abode or fixed place of business;

23 (b) Any person who by virtue of his or her office or public
24 employment is vested by law with a duty to preserve public safety,
25 maintain public order, or to make arrests for offenses, while in the
26 performance of such duty;

27 (c) Any person acting for the purpose of protecting himself or
28 herself against the use of presently threatened unlawful force by
29 another, or for the purpose of protecting another against the use of
30 such unlawful force by a third person;

31 (d) Any person making or assisting in making a lawful arrest for
32 the commission of a felony; or

33 (e) Any person engaged in military activities sponsored by the
34 federal or state governments.

35 **Sec. 128.** RCW 9.41.280 and 1993 c 347 s 1 are each amended to read
36 as follows:

1 (1) It is unlawful for a person to carry onto, or to possess on,
2 public or private elementary or secondary school premises, school-
3 provided transportation, or areas of facilities while being used
4 exclusively by public or private schools:

5 (a) Any firearm; ~~((or))~~

6 (b) Any other dangerous weapon as defined in RCW 9.41.250; ~~((or))~~

7 (c) Any device commonly known as "nun-chu-ka sticks", consisting of
8 two or more lengths of wood, metal, plastic, or similar substance
9 connected with wire, rope, or other means; ~~((or))~~

10 (d) Any device, commonly known as "throwing stars", which are
11 multi-pointed, metal objects designed to embed upon impact from any
12 aspect; or

13 (e) Any air gun, including any air pistol or air rifle, designed to
14 propel a BB, pellet, or other projectile by the discharge of compressed
15 air, carbon dioxide, or other gas.

16 (2) Any such person violating subsection (1) of this section is
17 guilty of a gross misdemeanor.

18 Any violation of subsection (1) of this section by elementary or
19 secondary school students constitutes grounds for expulsion from the
20 state's public schools in accordance with RCW 28A.600.010. However,
21 any violation of subsection (1)(a) of this section by an elementary or
22 secondary school student shall result in expulsion for an indefinite
23 period of time in accordance with RCW 28A.600.010. An appropriate
24 school authority shall promptly notify law enforcement and the
25 student's parent or guardian regarding any allegation or indication of
26 such violation.

27 (3) Subsection (1) of this section does not apply to:

28 (a) Any student or employee of a private military academy when on
29 the property of the academy;

30 (b) Any person engaged in military, law enforcement, or school
31 district security activities;

32 (c) Any person who is involved in a convention, showing,
33 demonstration, lecture, or firearms safety course authorized by school
34 authorities in which the firearms of collectors or instructors are
35 handled or displayed;

36 ~~((Any person who possesses nun-chu-ka sticks, throwing stars,~~
37 ~~or other dangerous weapons to be used in martial arts classes~~
38 ~~authorized to be conducted on the school premises;~~

1 ~~(e)~~) Any person while the person is participating in a firearms or
2 air gun competition approved by the school or school district;

3 ~~((f))~~ (e) Any person in possession of a pistol who has been
4 issued a license under RCW 9.41.070, or is exempt from the licensing
5 requirement by RCW 9.41.060,, while picking up or dropping off a
6 student;

7 ~~((g))~~ (f) Any ~~(person)~~ nonstudent at least eighteen years of
8 age legally in possession of a firearm or dangerous weapon that is
9 secured within an attended vehicle or concealed from view within a
10 locked unattended vehicle while conducting legitimate business at the
11 school;

12 ~~((h))~~ (g) Any ~~(person)~~ nonstudent at least eighteen years of
13 age who is in lawful possession of an unloaded firearm, secured in a
14 vehicle while conducting legitimate business at the school; or

15 ~~((i))~~ (h) Any law enforcement officer of the federal, state, or
16 local government agency.

17 (4) Subsections (1) (c) and (d) of this section do not apply to any
18 person who possesses nun-chu-ka sticks, throwing stars, or other
19 dangerous weapons to be used in martial arts classes authorized to be
20 conducted on the school premises.

21 (5) Except as provided in subsection (3)(b), (c), ~~((e))~~ (f), and
22 ~~((i))~~ (h) of this section, firearms are not permitted in a public or
23 private school building.

24 ~~((5))~~ (6) "GUN-FREE ZONE" signs shall be posted around school
25 facilities giving warning of the prohibition of the possession of
26 firearms on school grounds.

27 **Sec. 129.** RCW 9.41.290 and 1985 c 428 s 1 are each amended to read
28 as follows:

29 The state of Washington hereby fully occupies and preempts the
30 entire field of firearms regulation within the boundaries of the state,
31 including the registration, licensing, possession, purchase, sale,
32 acquisition, transfer, discharge, and transportation of firearms, or
33 any other element relating to firearms or parts thereof, including
34 ammunition and reloader components. Cities, towns, and counties or
35 other municipalities may enact only those laws and ordinances relating
36 to firearms that are specifically authorized by state law, as in RCW
37 9.41.300, and are consistent with this chapter. Such local ordinances
38 shall have the same ~~(or lesser)~~ penalty as provided for by state law.

1 Local laws and ordinances that are inconsistent with, more restrictive
2 than, or exceed the requirements of state law shall not be enacted and
3 are preempted and repealed, regardless of the nature of the code,
4 charter, or home rule status of such city, town, county, or
5 municipality.

6 **Sec. 130.** RCW 9.41.300 and 1993 c 396 s 1 are each amended to read
7 as follows:

8 (1) It is unlawful for any person to enter the following places
9 when he or she knowingly possesses or knowingly has under his or her
10 control a weapon:

11 (a) The restricted access areas of a jail, or of a law enforcement
12 facility, or any place used for the confinement of a person (i)
13 arrested for, charged with, or convicted of an offense, (ii) charged
14 with being or adjudicated to be a juvenile offender as defined in RCW
15 13.40.020, (iii) held for extradition or as a material witness, or (iv)
16 otherwise confined pursuant to an order of a court, except an order
17 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
18 include common areas of egress or ingress open to the general public;

19 (b) Those areas in any building which are used in connection with
20 court proceedings, including courtrooms, jury rooms, judge's chambers,
21 offices and areas used to conduct court business, waiting areas, and
22 corridors adjacent to areas used in connection with court proceedings.
23 The restricted areas do not include common areas of ingress and egress
24 to the building that is used in connection with court proceedings, when
25 it is possible to protect court areas without restricting ingress and
26 egress to the building. The restricted areas shall be the minimum
27 necessary to fulfill the objective of this subsection (1)(b).

28 In addition, the local legislative authority shall provide either
29 a stationary locked box sufficient in size for (~~short firearms~~)
30 pistols and key to a weapon owner for weapon storage, or shall
31 designate an official to receive weapons for safekeeping, during the
32 owner's visit to restricted areas of the building. The locked box or
33 designated official shall be located within the same building used in
34 connection with court proceedings. The local legislative authority
35 shall be liable for any negligence causing damage to or loss of a
36 weapon either placed in a locked box or left with an official during
37 the owner's visit to restricted areas of the building.

1 The local judicial authority shall designate and clearly mark those
2 areas where weapons are prohibited, and shall post notices at each
3 entrance to the building of the prohibition against weapons in the
4 restricted areas;

5 (c) The restricted access areas of a public mental health facility
6 certified by the department of social and health services for inpatient
7 hospital care and state institutions for the care of the mentally ill,
8 excluding those facilities solely for evaluation and treatment.
9 Restricted access areas do not include common areas of egress and
10 ingress open to the general public; or

11 (d) That portion of an establishment classified by the state liquor
12 control board as off-limits to persons under twenty-one years of age.

13 (2) (~~Notwithstanding RCW 9.41.290,~~) Cities, towns, counties, and
14 other municipalities may enact laws and ordinances:

15 (a) Restricting the discharge of firearms in any portion of their
16 respective jurisdictions where there is a reasonable likelihood that
17 humans, domestic animals, or property will be jeopardized. Such laws
18 and ordinances shall not abridge the right of the individual guaranteed
19 by Article I, section 24 of the state Constitution to bear arms in
20 defense of self or others; and

21 (b) Restricting the possession of firearms in any stadium or
22 convention center, operated by a city, town, county, or other
23 municipality, except that such restrictions shall not apply to:

24 (i) Any (~~firearm~~) pistol in the possession of a person licensed
25 under RCW 9.41.070 or exempt from the licensing requirement by RCW
26 9.41.060; or

27 (ii) Any showing, demonstration, or lecture involving the
28 exhibition of firearms.

29 (3)(a) Cities, towns, and counties may enact ordinances restricting
30 the areas in their respective jurisdictions in which firearms may be
31 sold, but, except as provided in (b) of this subsection, a business
32 selling firearms may not be treated more restrictively than other
33 businesses located within the same zone. An ordinance requiring the
34 cessation of business within a zone shall not have a shorter
35 grandfather period for businesses selling firearms than for any other
36 businesses within the zone.

37 (b) Cities, towns, and counties may restrict the location of a
38 business selling firearms to not less than five hundred feet from
39 primary or secondary school grounds, if the business has a storefront,

1 has hours during which it is open for business, and posts
2 advertisements or signs observable to passersby that firearms are
3 available for sale.

4 (4) Violations of local ordinances adopted under subsection (2) or
5 (3) of this section must have the same penalty as provided for by state
6 law.

7 (5) The perimeter of the premises of any specific location covered
8 by subsection (1) of this section shall be posted at reasonable
9 intervals to alert the public as to the existence of any law
10 restricting the possession of firearms on the premises.

11 ~~((+4))~~ (6) Subsection (1) of this section does not apply to:

12 (a) A person engaged in military activities sponsored by the
13 federal or state governments, while engaged in official duties;

14 (b) Law enforcement personnel; or

15 (c) Security personnel while engaged in official duties.

16 ~~((+5))~~ (7) Subsection (1)(a) of this section does not apply to a
17 person licensed pursuant to RCW 9.41.070 who, upon entering the place
18 or facility, directly and promptly proceeds to the administrator of the
19 facility or the administrator's designee and obtains written permission
20 to possess the firearm while on the premises or checks his or her
21 firearm. The person may reclaim the firearms upon leaving but must
22 immediately and directly depart from the place or facility.

23 ~~((+6))~~ (8) Subsection (1)(c) of this section does not apply to any
24 administrator or employee of the facility or to any person who, upon
25 entering the place or facility, directly and promptly proceeds to the
26 administrator of the facility or the administrator's designee and
27 obtains written permission to possess the firearm while on the
28 premises.

29 ~~((+7))~~ (9) Subsection (1)(d) of this section does not apply to the
30 proprietor of the premises or his or her employees while engaged in
31 their employment.

32 ~~((+8))~~ (10) Any person violating subsection (1) of this section is
33 guilty of a gross misdemeanor.

34 ~~((+9))~~ (11) "Weapon" as used in this section means any firearm,
35 explosive as defined in RCW 70.74.010, or instrument or weapon listed
36 in RCW 9.41.250.

37 NEW SECTION. Sec. 131. A new section is added to chapter 9.41 RCW
38 to read as follows:

1 (1) The Washington advisory panel on firearms is established.

2 (2) The panel shall advise the governor and the legislature on
3 current technology, information, and data related to firearms and the
4 use of firearms in crime and shall make recommendations to the
5 legislature regarding proposed changes to current law in the area of
6 licensing, sales, or restrictions on the use or possession of any
7 firearms in accordance with Article I, section 24 of the state
8 Constitution.

9 (3) The panel shall consist of thirteen members appointed by the
10 governor.

11 (4) The members of the panel shall include:

12 (a) A representative of the Washington association of sheriffs and
13 police chiefs, who will serve as the nonvoting chair;

14 (b) A representative of the Washington state council of police
15 officers;

16 (c) A representative of the national rifle association or its
17 affiliated state organization, or of a similar group, who resides in
18 Washington state;

19 (d) A representative of Washington cease fire, or of a similar
20 group, who resides in Washington state;

21 (e) A representative of handgun dealers, manufacturers, or
22 gunsmiths;

23 (f) Two state representatives appointed by the speaker of the house
24 of representatives, representing the two largest caucuses, one of whom
25 is an advocate of firearms' control and one of whom is an advocate of
26 the right to bear firearms;

27 (g) Two state senators appointed by the president of the senate,
28 representing the two largest caucuses, one of whom is an advocate of
29 firearms' control and one of whom is an advocate of the right to bear
30 firearms;

31 (h) A representative of the governor; and

32 (i) Three citizens, representing different geographical regions of
33 the state, who shall have no known affiliation with advocacy of
34 firearms control or with advocacy of the right to bear firearms and no
35 known strong sentiment on the firearms issue, and who shall be chosen
36 from an agreed upon list developed by Washington cease fire and the
37 national rifle association or its affiliated state organization.

38 (5) The panel shall meet at least twice annually at the request of
39 the chair or by request of a majority of the members.

1 (6) The panel shall consider need and desirability for change in
2 firearm laws consistent with Article I, section 24 of the state
3 Constitution and public health and safety.

4 (7) Nothing in this section shall be construed as requiring the
5 panel to test any firearm or have any firearm tested at the panel's
6 expense.

7 (8) This section shall expire June 30, 1999.

8 **Sec. 132.** RCW 13.40.265 and 1989 c 271 s 116 are each amended to
9 read as follows:

10 (1)(a) If a juvenile thirteen years of age or older is found by
11 juvenile court to have committed an offense while armed with a firearm
12 or an offense that is a violation of RCW 9.41.040(1)(e) or chapter
13 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the
14 department of licensing within twenty-four hours after entry of the
15 judgment.

16 (b) Except as otherwise provided in (c) of this subsection, upon
17 petition of a juvenile who has been found by the court to have
18 committed an offense that is a violation of chapter 66.44, 69.41,
19 69.50, or 69.52 RCW, the court may at any time the court deems
20 appropriate notify the department of licensing that the juvenile's
21 driving privileges should be reinstated.

22 (c) If the offense is the juvenile's first violation of chapter
23 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the
24 court for reinstatement of the juvenile's privilege to drive revoked
25 pursuant to RCW 46.20.265 until ninety days after the date the juvenile
26 turns sixteen or ninety days after the judgment was entered, whichever
27 is later. If the offense is the juvenile's second or subsequent
28 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile
29 may not petition the court for reinstatement of the juvenile's
30 privilege to drive revoked pursuant to RCW 46.20.265 until the date the
31 juvenile turns seventeen or one year after the date judgment was
32 entered, whichever is later.

33 (2)(a) If a juvenile enters into a diversion agreement with a
34 diversion unit pursuant to RCW 13.40.080 concerning an offense that is
35 a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion
36 unit shall notify the department of licensing within twenty-four hours
37 after the diversion agreement is signed.

1 (b) If a diversion unit has notified the department pursuant to (a)
2 of this subsection, the diversion unit shall notify the department of
3 licensing when the juvenile has completed the agreement.

4 **Sec. 133.** RCW 13.64.060 and 1993 c 294 s 6 are each amended to
5 read as follows:

6 (1) An emancipated minor shall be considered to have the power and
7 capacity of an adult, except as provided in subsection (2) of this
8 section. A minor shall be considered emancipated for the purposes of,
9 but not limited to:

10 (a) The termination of parental obligations of financial support,
11 care, supervision, and any other obligation the parent may have by
12 virtue of the parent-child relationship, including obligations imposed
13 because of marital dissolution;

14 (b) The right to sue or be sued in his or her own name;

15 (c) The right to retain his or her own earnings;

16 (d) The right to establish a separate residence or domicile;

17 (e) The right to enter into nonvoidable contracts;

18 (f) The right to act autonomously, and with the power and capacity
19 of an adult, in all business relationships, including but not limited
20 to property transactions;

21 (g) The right to work, and earn a living, subject only to the
22 health and safety regulations designed to protect those under age of
23 majority regardless of their legal status; and

24 (h) The right to give informed consent for receiving health care
25 services.

26 (2) An emancipated minor shall not be considered an adult for: (a)
27 The purposes of the adult criminal laws of the state unless the decline
28 of jurisdiction procedures contained in RCW 13.40.110 are used or the
29 minor is tried in criminal court pursuant to RCW 13.04.030(1)(e)(iv);

30 (b) the criminal laws of the state when the emancipated minor is a
31 victim and the age of the victim is an element of the offense; or (c)
32 those specific constitutional and statutory age requirements regarding
33 voting, use of alcoholic beverages, ownership, possession, or control
34 of firearms, and other health and safety regulations relevant to the
35 minor because of the minor's age.

36 **Sec. 134.** RCW 26.28.080 and 1987 c 250 s 2 and 1987 c 204 s 1 are
37 each reenacted and amended to read as follows:

1 Every person who:

2 (1) Shall admit to or allow to remain in any concert saloon, or in
3 any place owned, kept, or managed by him or her where intoxicating
4 liquors are sold, given away or disposed of--except a restaurant or
5 dining room, any person under the age of eighteen years; ((or))

6 (2) Shall admit to, or allow to remain in any public pool or
7 billiard hall, or in any place of entertainment injurious to health or
8 morals, owned, kept or managed by him or her, any person under the age
9 of eighteen years; ((or))

10 (3) Shall suffer or permit any such person to play any game of
11 skill or chance, in any such place, or in any place adjacent thereto,
12 or to be or remain therein, or admit or allow to remain in any reputed
13 house of prostitution or assignation, or in any place where opium or
14 any preparation thereof, is smoked, or where any narcotic drug is used,
15 any persons under the age of eighteen years; or(())

16 (4) Shall sell or give, or permit to be sold or given to any person
17 under the age of eighteen years any cigar, cigarette, cigarette paper
18 or wrapper, or tobacco in any form; ((or

19 ~~(5) Shall sell, or give, or permit to be sold or given to any~~
20 ~~person under the age of eighteen years, any revolver or pistol;))~~
21 shall be guilty of a gross misdemeanor.

22 It shall be no defense to a prosecution for a violation of this
23 section that the person acted, or was believed by the defendant to act,
24 as agent or representative of another.

25 **Sec. 135.** RCW 42.17.318 and 1988 c 219 s 2 are each amended to
26 read as follows:

27 ~~((The license applications under RCW 9.41.070 are exempt from the~~
28 ~~disclosure requirements of this chapter. Copies of license~~
29 ~~applications or information on the applications may be released to law~~
30 ~~enforcement or corrections agencies.))~~

31 (1) Except as provided in subsection (3) of this section, the
32 license applications under RCW 9.41.070, purchase applications under
33 RCW 9.41.090, and records of pistol sales under RCW 9.41.110 shall not
34 be disclosed.

35 (2) Except as provided in subsection (3) of this section,
36 information concerning mental health histories received by: (a) The
37 department of licensing, under section 104 of this act; (b) an
38 authority that issues concealed pistol licenses, under section 104 of

1 this act or RCW 9.41.070; (c) a law enforcement agency, under RCW
2 9.41.090; or (d) a court or law enforcement agency under RCW 9.41.097,
3 shall not be disclosed.

4 (3)(a) Copies or records of applications for concealed pistol
5 licenses or to purchase pistols, copies or records of pistol sales, and
6 information on the applications or records may be released to law
7 enforcement or corrections agencies or to the person who is the subject
8 of the information. Information concerning mental health histories may
9 be released to law enforcement or corrections agencies. The person who
10 is the subject of mental health information may seek disclosure of the
11 information from the health care provider pursuant to chapter 70.02
12 RCW.

13 (b) Personally identifying information from applications for
14 concealed pistol licenses, applications to purchase pistols, and
15 records of pistol transfers, such as names, addresses (other than zip
16 codes), and social security numbers, shall not be disclosed except as
17 provided in (a) of this subsection. Information other than personally
18 identifying information, concerning applications for concealed pistol
19 licenses or to purchase pistols, or concerning records of pistol sales,
20 may be disclosed to any person upon request.

21 **Sec. 136.** RCW 46.20.265 and 1991 c 260 s 1 are each amended to
22 read as follows:

23 (1) In addition to any other authority to revoke driving privileges
24 under this chapter, the department shall revoke all driving privileges
25 of a juvenile when the department receives notice from a court pursuant
26 to RCW 9.41.040(5), 13.40.265, 66.44.365, 69.41.065, 69.50.420,
27 69.52.070, or a substantially similar municipal ordinance adopted by a
28 local legislative authority, or from a diversion unit pursuant to RCW
29 13.40.265. The revocation shall be imposed without hearing.

30 (2) The driving privileges of the juvenile revoked under subsection
31 (1) of this section shall be revoked in the following manner:

32 (a) Upon receipt of the first notice, the department shall impose
33 a revocation for one year, or until the juvenile reaches seventeen
34 years of age, whichever is longer.

35 (b) Upon receipt of a second or subsequent notice, the department
36 shall impose a revocation for two years or until the juvenile reaches
37 eighteen years of age, whichever is longer.

1 (c) Each offense for which the department receives notice shall
2 result in a separate period of revocation. All periods of revocation
3 imposed under this section that could otherwise overlap shall run
4 consecutively and no period of revocation imposed under this section
5 shall begin before the expiration of all other periods of revocation
6 imposed under this section or other law.

7 (3) If the department receives notice from a court that the
8 juvenile's privilege to drive should be reinstated, the department
9 shall immediately reinstate any driving privileges that have been
10 revoked under this section.

11 (4)(a) If the department receives notice pursuant to RCW
12 13.40.265(2)(b) from a diversion unit that a juvenile has completed a
13 diversion agreement for which the juvenile's driving privileges were
14 revoked, the department shall reinstate any driving privileges revoked
15 under this section as provided in (b) of this subsection.

16 (b) If the diversion agreement was for the juvenile's first
17 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department
18 shall not reinstate the juvenile's privilege to drive until the later
19 of ninety days after the date the juvenile turns sixteen or ninety days
20 after the juvenile entered into a diversion agreement for the offense.
21 If the diversion agreement was for the juvenile's second or subsequent
22 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department
23 shall not reinstate the juvenile's privilege to drive until the later
24 of the date the juvenile turns seventeen or one year after the juvenile
25 entered into the second or subsequent diversion agreement.

26 **Sec. 137.** RCW 71.05.450 and 1973 1st ex.s. c 142 s 50 are each
27 amended to read as follows:

28 Competency shall not be determined or withdrawn by operation of, or
29 under the provisions of this chapter. Except as chapter 9.41 RCW may
30 limit the right of a person to purchase or possess a firearm or to
31 qualify for a concealed pistol license, no person shall be presumed
32 incompetent or lose any civil rights as a consequence of receiving
33 evaluation or treatment for mental disorder, either voluntarily or
34 involuntarily, or certification or commitment pursuant to this chapter
35 or any prior laws of this state dealing with mental illness. Any
36 person who leaves a public or private agency following evaluation or
37 treatment for mental disorder shall be given a written statement
38 setting forth the substance of this section.

1 **Sec. 138.** RCW 71.12.560 and 1974 ex.s. c 145 s 1 are each amended
2 to read as follows:

3 The person in charge of any private institution, hospital, or
4 sanitarium which is conducted for, or includes a department or ward
5 conducted for, the care and treatment of persons who are mentally ill
6 or deranged may receive therein as a voluntary patient any person
7 suffering from mental illness or derangement who is a suitable person
8 for care and treatment in the institution, hospital, or sanitarium, who
9 voluntarily makes a written application to the person in charge for
10 admission into the institution, hospital or sanitarium. (~~After six~~
11 ~~months of continuous inpatient treatment as a voluntary~~) At the
12 expiration of fourteen continuous days of treatment of a patient
13 voluntarily committed in a private institution, hospital, or
14 sanitarium, if the period of voluntary commitment is to continue, the
15 person in charge shall forward to the office of the department of
16 social and health services a record of the voluntary patient showing
17 the name, residence, (~~age~~) date of birth, sex, place of birth,
18 occupation, social security number, marital status, date of admission
19 to the institution, hospital, or sanitarium, and such other information
20 as may be required by rule of the department of social and health
21 services.

22 **Sec. 139.** RCW 72.23.080 and 1959 c 28 s 72.23.080 are each amended
23 to read as follows:

24 Any person received and detained in a state hospital (~~pursuant to~~
25 ~~RCW 72.23.070 shall be~~) under chapter 71.34 RCW is deemed a voluntary
26 patient and, except as chapter 9.41 RCW may limit the right of a person
27 to purchase or possess a firearm or to qualify for a concealed pistol
28 license, shall not suffer a loss of legal competency by reason of his
29 or her application and admission. Upon the admission of a voluntary
30 patient to a state hospital the superintendent shall immediately
31 forward to the department the record of such patient showing the name,
32 address, sex, (~~age~~) date of birth, place of birth, occupation, social
33 security number, date of admission, name of nearest relative, and such
34 other information as the department may from time to time require.

35 **Sec. 140.** RCW 82.04.300 and 1993 sp.s. c 25 s 205 are each amended
36 to read as follows:

1 This chapter shall apply to any person engaging in any business
2 activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255,
3 82.04.260, 82.04.270, 82.04.280, and 82.04.290 other than those whose
4 value of products, gross proceeds of sales, or gross income of the
5 business is less than one thousand dollars per month: PROVIDED, That
6 where one person engages in more than one business activity and the
7 combined measures of the tax applicable to such businesses equal or
8 exceed one thousand dollars per month, no exemption or deduction from
9 the amount of tax is allowed by this section.

10 A person who is a dealer as defined by RCW 9.41.010 is required to
11 file returns even though no tax may be due. Any other person claiming
12 exemption under the provisions of this section may be required,
13 according to rules adopted by the department, to file returns even
14 though no tax may be due. The department of revenue may allow
15 exemptions, by general rule or regulation, in those instances in which
16 quarterly, semiannual, or annual returns are permitted. Exemptions for
17 such periods shall be equivalent in amount to the total of exemptions
18 for each month of a reporting period.

19 **Sec. 141.** RCW 82.32.030 and 1992 c 206 s 8 are each amended to
20 read as follows:

21 (1) Except as provided in subsection (2) of this section, if any
22 person engages in any business or performs any act upon which a tax is
23 imposed by the preceding chapters, he or she shall, under such rules as
24 the department of revenue shall prescribe, apply for and obtain from
25 the department a registration certificate upon payment of fifteen
26 dollars. Such registration certificate shall be personal and
27 nontransferable and shall be valid as long as the taxpayer continues in
28 business and pays the tax accrued to the state. In case business is
29 transacted at two or more separate places by one taxpayer, a separate
30 registration certificate for each place at which business is transacted
31 with the public shall be required, but, for such additional
32 certificates no additional payment shall be required. Each certificate
33 shall be numbered and shall show the name, residence, and place and
34 character of business of the taxpayer and such other information as the
35 department of revenue deems necessary and shall be posted in a
36 conspicuous place at the place of business for which it is issued.
37 Where a place of business of the taxpayer is changed, the taxpayer must
38 return to the department the existing certificate, and a new

1 certificate will be issued for the new place of business free of
2 charge. No person required to be registered under this section shall
3 engage in any business taxable hereunder without first being so
4 registered. The department, by rule, may provide for the issuance of
5 certificates of registration, without requiring payment, to temporary
6 places of business or to persons who are exempt from tax under RCW
7 82.04.300.

8 (2) Unless the person is a dealer as defined in RCW 9.41.010,
9 registration under this section is not required if the following
10 conditions are met:

11 (a) A person's value of products, gross proceeds of sales, or gross
12 income of the business is below the tax reporting threshold provided in
13 RCW 82.04.300;

14 (b) The person is not required to collect or pay to the department
15 of revenue any other tax which the department is authorized to collect;
16 and

17 (c) The person is not otherwise required to obtain a license
18 subject to the master application procedure provided in chapter 19.02
19 RCW.

20 NEW SECTION. Sec. 142. (1) RCW 19.70.010 and 19.70.020 are each
21 recodified as sections in chapter 9.41 RCW.

22 (2) RCW 9.41.160 is recodified in chapter 9.41 RCW to follow RCW
23 9.41.310.

24 NEW SECTION. Sec. 143. The following acts or parts of acts are
25 each repealed:

26 (1) RCW 9.41.030 and 1935 c 172 s 3;

27 (2) RCW 9.41.093 and 1969 ex.s. c 227 s 2;

28 (3) RCW 9.41.130 and 1935 c 172 s 13;

29 (4) RCW 9.41.150 and 1989 c 132 s 1, 1961 c 124 s 11, & 1935 c 172
30 s 15;

31 (5) RCW 9.41.180 and 1992 c 7 s 8 & 1909 c 249 s 266;

32 (6) RCW 9.41.200 and 1982 c 231 s 2 & 1933 c 64 s 2;

33 (7) RCW 9.41.210 and 1933 c 64 s 3; and

34 (8) RCW 9.41.240 and 1971 c 34 s 1, 1909 c 249 s 308, & 1883 p 67
35 s 1.

36 **PART II - SUPERIOR AND JUVENILE COURT JURISDICTION**

1 **Sec. 201.** RCW 13.04.030 and 1988 c 14 s 1 are each amended to read
2 as follows:

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

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

8 ~~((2))~~ (b) Relating to children alleged or found to be dependent
9 as provided in chapter 26.44 RCW and in RCW 13.34.030 through
10 13.34.170~~((, as now or hereafter amended))~~;

11 ~~((3))~~ (c) Relating to the termination of a parent and child
12 relationship as provided in RCW 13.34.180 through 13.34.210~~((, as now~~
13 ~~or hereafter amended))~~;

14 ~~((4))~~ (d) To approve or disapprove alternative residential
15 placement as provided in RCW 13.32A.170;

16 ~~((5))~~ (e) Relating to juveniles alleged or found to have
17 committed offenses, traffic infractions, or violations as provided in
18 RCW 13.40.020 through 13.40.230, ~~((as now or hereafter amended,))~~
19 unless:

20 ~~((a))~~ (i) The juvenile court transfers jurisdiction of a
21 particular juvenile to adult criminal court pursuant to RCW
22 13.40.110~~((, as now or hereafter amended))~~; or

23 ~~((b))~~ (ii) The statute of limitations applicable to adult
24 prosecution for the offense, traffic infraction, or violation has
25 expired; or

26 ~~((c))~~ (iii) The alleged offense or infraction is a traffic, fish,
27 boating, or game offense or traffic infraction committed by a juvenile
28 sixteen years of age or older and would, if committed by an adult, be
29 tried or heard in a court of limited jurisdiction, in which instance
30 the appropriate court of limited jurisdiction shall have jurisdiction
31 over the alleged offense or infraction: PROVIDED, That if such an
32 alleged offense or infraction and an alleged offense or infraction
33 subject to juvenile court jurisdiction arise out of the same event or
34 incident, the juvenile court may have jurisdiction of both matters:
35 PROVIDED FURTHER, That the jurisdiction under this subsection does not
36 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
37 or (e)(i) of this subsection ~~((5)(a) of this section))~~: PROVIDED
38 FURTHER, That courts of limited jurisdiction which confine juveniles
39 for an alleged offense or infraction may place juveniles in juvenile

1 detention facilities under an agreement with the officials responsible
2 for the administration of the juvenile detention facility in RCW
3 13.04.035 and 13.20.060; or

4 ~~((+6))~~ (iv) The juvenile is sixteen or seventeen years old and the
5 alleged offense is: (A) A serious violent offense as defined in RCW
6 9.94A.030 committed on or after the effective date of this section; or
7 (B) a violent offense as defined in RCW 9.94A.030 committed on or after
8 the effective date of this section and the juvenile has a criminal
9 history consisting of: (I) One or more prior serious violent offenses;
10 (II) two or more prior violent offenses; or (III) three or more of any
11 combination of the following offenses: Any class A felony, any class
12 B felony, vehicular assault, or manslaughter in the second degree, all
13 of which must have been committed after the juvenile's thirteenth
14 birthday and prosecuted separately. In such a case the adult criminal
15 court shall have exclusive original jurisdiction.

16 If the juvenile challenges the state's determination of the
17 juvenile's criminal history, the state may establish the offender's
18 criminal history by a preponderance of the evidence. If the criminal
19 history consists of adjudications entered upon a plea of guilty, the
20 state shall not bear a burden of establishing the knowing and
21 voluntariness of the plea;

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

24 ~~((+7))~~ (g) Relating to termination of a diversion agreement under
25 RCW 13.40.080 ((as now or hereafter amended)), including a proceeding
26 in which the diveree has attained eighteen years of age; and

27 ~~((+8))~~ (h) Relating to court validation of a voluntary consent to
28 foster care placement under chapter 13.34 RCW, by the parent or Indian
29 custodian of an Indian child, except if the parent or Indian custodian
30 and child are residents of or domiciled within the boundaries of a
31 federally recognized Indian reservation over which the tribe exercises
32 exclusive jurisdiction.

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

1 **Sec. 202.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No.
2 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each
3 reenacted and amended to read as follows:

4 Unless the context clearly requires otherwise, the definitions in
5 this section apply throughout this chapter.

6 (1) "Collect," or any derivative thereof, "collect and remit," or
7 "collect and deliver," when used with reference to the department of
8 corrections, means that the department is responsible for monitoring
9 and enforcing the offender's sentence with regard to the legal
10 financial obligation, receiving payment thereof from the offender, and,
11 consistent with current law, delivering daily the entire payment to the
12 superior court clerk without depositing it in a departmental account.

13 (2) "Commission" means the sentencing guidelines commission.

14 (3) "Community corrections officer" means an employee of the
15 department who is responsible for carrying out specific duties in
16 supervision of sentenced offenders and monitoring of sentence
17 conditions.

18 (4) "Community custody" means that portion of an inmate's sentence
19 of confinement in lieu of earned early release time served in the
20 community subject to controls placed on the inmate's movement and
21 activities by the department of corrections.

22 (5) "Community placement" means that period during which the
23 offender is subject to the conditions of community custody and/or
24 postrelease supervision, which begins either upon completion of the
25 term of confinement (postrelease supervision) or at such time as the
26 offender is transferred to community custody in lieu of earned early
27 release. Community placement may consist of entirely community
28 custody, entirely postrelease supervision, or a combination of the two.

29 (6) "Community service" means compulsory service, without
30 compensation, performed for the benefit of the community by the
31 offender.

32 (7) "Community supervision" means a period of time during which a
33 convicted offender is subject to crime-related prohibitions and other
34 sentence conditions imposed by a court pursuant to this chapter or RCW
35 46.61.524. For first-time offenders, the supervision may include
36 crime-related prohibitions and other conditions imposed pursuant to RCW
37 9.94A.120(5). For purposes of the interstate compact for out-of-state
38 supervision of parolees and probationers, RCW 9.95.270, community

1 supervision is the functional equivalent of probation and should be
2 considered the same as probation by other states.

3 (8) "Confinement" means total or partial confinement as defined in
4 this section.

5 (9) "Conviction" means an adjudication of guilt pursuant to Titles
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
7 acceptance of a plea of guilty.

8 (10) "Court-ordered legal financial obligation" means a sum of
9 money that is ordered by a superior court of the state of Washington
10 for legal financial obligations which may include restitution to the
11 victim, statutorily imposed crime victims' compensation fees as
12 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
13 drug funds, court-appointed attorneys' fees, and costs of defense,
14 fines, and any other financial obligation that is assessed to the
15 offender as a result of a felony conviction. Upon conviction for
16 vehicular assault while under the influence of intoxicating liquor or
17 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
18 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
19 legal financial obligations may also include payment to a public agency
20 of the expense of an emergency response to the incident resulting in
21 the conviction, subject to the provisions in RCW 38.52.430.

22 (11) "Crime-related prohibition" means an order of a court
23 prohibiting conduct that directly relates to the circumstances of the
24 crime for which the offender has been convicted, and shall not be
25 construed to mean orders directing an offender affirmatively to
26 participate in rehabilitative programs or to otherwise perform
27 affirmative conduct.

28 (12)(a) "Criminal history" means the list of a defendant's prior
29 convictions, whether in this state, in federal court, or elsewhere.
30 The history shall include, where known, for each conviction (i) whether
31 the defendant has been placed on probation and the length and terms
32 thereof; and (ii) whether the defendant has been incarcerated and the
33 length of incarceration.

34 (b) "Criminal history" shall always include juvenile convictions
35 for sex offenses and shall also include a defendant's other prior
36 convictions in juvenile court if: (i) The conviction was for an
37 offense which is a felony or a serious traffic offense and is criminal
38 history as defined in RCW 13.40.020(~~((6))~~)(9)(a); (ii) the defendant
39 was fifteen years of age or older at the time the offense was

1 committed; and (iii) with respect to prior juvenile class B and C
2 felonies or serious traffic offenses, the defendant was less than
3 twenty-three years of age at the time the offense for which he or she
4 is being sentenced was committed.

5 (13) "Department" means the department of corrections.

6 (14) "Determinate sentence" means a sentence that states with
7 exactitude the number of actual years, months, or days of total
8 confinement, of partial confinement, of community supervision, the
9 number of actual hours or days of community service work, or dollars or
10 terms of a legal financial obligation. The fact that an offender
11 through "earned early release" can reduce the actual period of
12 confinement shall not affect the classification of the sentence as a
13 determinate sentence.

14 (15) "Disposable earnings" means that part of the earnings of an
15 individual remaining after the deduction from those earnings of any
16 amount required by law to be withheld. For the purposes of this
17 definition, "earnings" means compensation paid or payable for personal
18 services, whether denominated as wages, salary, commission, bonuses, or
19 otherwise, and, notwithstanding any other provision of law making the
20 payments exempt from garnishment, attachment, or other process to
21 satisfy a court-ordered legal financial obligation, specifically
22 includes periodic payments pursuant to pension or retirement programs,
23 or insurance policies of any type, but does not include payments made
24 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
25 or Title 74 RCW.

26 (16) "Drug offense" means:

27 (a) Any felony violation of chapter 69.50 RCW except possession of
28 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
29 controlled substance (RCW 69.50.403);

30 (b) Any offense defined as a felony under federal law that relates
31 to the possession, manufacture, distribution, or transportation of a
32 controlled substance; or

33 (c) Any out-of-state conviction for an offense that under the laws
34 of this state would be a felony classified as a drug offense under (a)
35 of this subsection.

36 (17) "Escape" means:

37 (a) Escape in the first degree (RCW 9A.76.110), escape in the
38 second degree (RCW 9A.76.120), willful failure to return from furlough
39 (RCW 72.66.060), willful failure to return from work release (RCW

1 72.65.070), or willful failure to be available for supervision by the
2 department while in community custody (RCW 72.09.310); or

3 (b) Any federal or out-of-state conviction for an offense that
4 under the laws of this state would be a felony classified as an escape
5 under (a) of this subsection.

6 (18) "Felony traffic offense" means:

7 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
8 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
9 and-run injury-accident (RCW 46.52.020(4)); or

10 (b) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as a felony
12 traffic offense under (a) of this subsection.

13 (19) "Fines" means the requirement that the offender pay a specific
14 sum of money over a specific period of time to the court.

15 (20)(a) "First-time offender" means any person who is convicted of
16 a felony (i) not classified as a violent offense or a sex offense under
17 this chapter, or (ii) that is not the manufacture, delivery, or
18 possession with intent to manufacture or deliver a controlled substance
19 classified in schedule I or II that is a narcotic drug or the selling
20 for profit of any controlled substance or counterfeit substance
21 classified in schedule I, RCW 69.50.204, except leaves and flowering
22 tops of marihuana, and except as provided in (b) of this subsection,
23 who previously has never been convicted of a felony in this state,
24 federal court, or another state, and who has never participated in a
25 program of deferred prosecution for a felony offense.

26 (b) For purposes of (a) of this subsection, a juvenile adjudication
27 for an offense committed before the age of fifteen years is not a
28 previous felony conviction except for adjudications of sex offenses.

29 (21) "Most serious offense" means any of the following felonies or
30 a felony attempt to commit any of the following felonies, as now
31 existing or hereafter amended:

32 (a) Any felony defined under any law as a class A felony or
33 criminal solicitation of or criminal conspiracy to commit a class A
34 felony;

35 (b) Assault in the second degree;

36 (c) Assault of a child in the second degree;

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

39 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;
2 (h) Indecent liberties;
3 (i) Kidnapping in the second degree;
4 (j) Leading organized crime;
5 (k) Manslaughter in the first degree;
6 (l) Manslaughter in the second degree;
7 (m) Promoting prostitution in the first degree;
8 (n) Rape in the third degree;
9 (o) Robbery in the second degree;
10 (p) Sexual exploitation;
11 (q) Vehicular assault;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation, as "sexual motivation" is defined under this section;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.125;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection.
25 (22) "Nonviolent offense" means an offense which is not a violent
26 offense.
27 (23) "Offender" means a person who has committed a felony
28 established by state law and is eighteen years of age or older or is
29 less than eighteen years of age but whose case has been transferred by
30 the appropriate juvenile court to a criminal court pursuant to RCW
31 13.40.110 or has been tried in a criminal court pursuant to RCW
32 13.04.030(1)(e)(iv). Throughout this chapter, the terms "offender" and
33 "defendant" are used interchangeably.
34 (24) "Partial confinement" means confinement for no more than one
35 year in a facility or institution operated or utilized under contract
36 by the state or any other unit of government, or, if home detention or
37 work crew has been ordered by the court, in an approved residence, for
38 a substantial portion of each day with the balance of the day spent in
39 the community. Partial confinement includes work release, home

1 detention, work crew, and a combination of work crew and home detention
2 as defined in this section.

3 (25) "Persistent offender" is an offender who:

4 (a) Has been convicted in this state of any felony considered a
5 most serious offense; and

6 (b) Has, before the commission of the offense under (a) of this
7 subsection, been convicted as an offender on at least two separate
8 occasions, whether in this state or elsewhere, of felonies that under
9 the laws of this state would be considered most serious offenses and
10 would be included in the offender score under RCW 9.94A.360; provided
11 that of the two or more previous convictions, at least one conviction
12 must have occurred before the commission of any of the other most
13 serious offenses for which the offender was previously convicted.

14 (26) "Postrelease supervision" is that portion of an offender's
15 community placement that is not community custody.

16 (27) "Restitution" means the requirement that the offender pay a
17 specific sum of money over a specific period of time to the court as
18 payment of damages. The sum may include both public and private costs.
19 The imposition of a restitution order does not preclude civil redress.

20 (28) "Serious traffic offense" means:

21 (a) Driving while under the influence of intoxicating liquor or any
22 drug (RCW 46.61.502), actual physical control while under the influence
23 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
24 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
25 or

26 (b) Any federal, out-of-state, county, or municipal conviction for
27 an offense that under the laws of this state would be classified as a
28 serious traffic offense under (a) of this subsection.

29 (29) "Serious violent offense" is a subcategory of violent offense
30 and means:

31 (a) Murder in the first degree, homicide by abuse, murder in the
32 second degree, assault in the first degree, kidnapping in the first
33 degree, or rape in the first degree, assault of a child in the first
34 degree, or an attempt, criminal solicitation, or criminal conspiracy to
35 commit one of these felonies; or

36 (b) Any federal or out-of-state conviction for an offense that
37 under the laws of this state would be a felony classified as a serious
38 violent offense under (a) of this subsection.

1 (30) "Sentence range" means the sentencing court's discretionary
2 range in imposing a nonappealable sentence.

3 (31) "Sex offense" means:

4 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
5 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
6 attempt, criminal solicitation, or criminal conspiracy to commit such
7 crimes;

8 (b) A felony with a finding of sexual motivation under RCW
9 9.94A.127; or

10 (c) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as a sex
12 offense under (a) of this subsection.

13 (32) "Sexual motivation" means that one of the purposes for which
14 the defendant committed the crime was for the purpose of his or her
15 sexual gratification.

16 (33) "Total confinement" means confinement inside the physical
17 boundaries of a facility or institution operated or utilized under
18 contract by the state or any other unit of government for twenty-four
19 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

20 (34) "Transition training" means written and verbal instructions
21 and assistance provided by the department to the offender during the
22 two weeks prior to the offender's successful completion of the work
23 ethic camp program. The transition training shall include instructions
24 in the offender's requirements and obligations during the offender's
25 period of community custody.

26 (35) "Victim" means any person who has sustained emotional,
27 psychological, physical, or financial injury to person or property as
28 a direct result of the crime charged.

29 (36) "Violent offense" means:

30 (a) Any of the following felonies, as now existing or hereafter
31 amended: Any felony defined under any law as a class A felony or an
32 attempt to commit a class A felony, criminal solicitation of or
33 criminal conspiracy to commit a class A felony, manslaughter in the
34 first degree, manslaughter in the second degree, indecent liberties if
35 committed by forcible compulsion, kidnapping in the second degree,
36 arson in the second degree, assault in the second degree, assault of a
37 child in the second degree, extortion in the first degree, robbery in
38 the second degree, vehicular assault, and vehicular homicide, when
39 proximately caused by the driving of any vehicle by any person while

1 under the influence of intoxicating liquor or any drug as defined by
2 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

3 (b) Any conviction for a felony offense in effect at any time prior
4 to July 1, 1976, that is comparable to a felony classified as a violent
5 offense in (a) of this subsection; and

6 (c) Any federal or out-of-state conviction for an offense that
7 under the laws of this state would be a felony classified as a violent
8 offense under (a) or (b) of this subsection.

9 (37) "Work crew" means a program of partial confinement consisting
10 of civic improvement tasks for the benefit of the community of not less
11 than thirty-five hours per week that complies with RCW 9.94A.135. The
12 civic improvement tasks shall have minimal negative impact on existing
13 private industries or the labor force in the county where the service
14 or labor is performed. The civic improvement tasks shall not affect
15 employment opportunities for people with developmental disabilities
16 contracted through sheltered workshops as defined in RCW 82.04.385.
17 Only those offenders sentenced to a facility operated or utilized under
18 contract by a county or the state are eligible to participate on a work
19 crew. Offenders sentenced for a sex offense as defined in subsection
20 (31) of this section are not eligible for the work crew program.

21 (38) "Work ethic camp" means an alternative incarceration program
22 designed to reduce recidivism and lower the cost of corrections by
23 requiring offenders to complete a comprehensive array of real-world job
24 and vocational experiences, character-building work ethics training,
25 life management skills development, substance abuse rehabilitation,
26 counseling, literacy training, and basic adult education.

27 (39) "Work release" means a program of partial confinement
28 available to offenders who are employed or engaged as a student in a
29 regular course of study at school. Participation in work release shall
30 be conditioned upon the offender attending work or school at regularly
31 defined hours and abiding by the rules of the work release facility.

32 (40) "Home detention" means a program of partial confinement
33 available to offenders wherein the offender is confined in a private
34 residence subject to electronic surveillance. Home detention may not
35 be imposed for offenders convicted of a violent offense, any sex
36 offense, any drug offense, reckless burning in the first or second
37 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
38 degree as defined in RCW 9A.36.031, assault of a child in the third
39 degree, unlawful imprisonment as defined in RCW 9A.40.040, or

1 harassment as defined in RCW 9A.46.020. Home detention may be imposed
2 for offenders convicted of possession of a controlled substance (RCW
3 69.50.401(d)) or forged prescription for a controlled substance (RCW
4 69.50.403) if the offender fulfills the participation conditions set
5 forth in this subsection and is monitored for drug use by treatment
6 alternatives to street crime (TASC) or a comparable court or agency-
7 referred program.

8 (a) Home detention may be imposed for offenders convicted of
9 burglary in the second degree as defined in RCW 9A.52.030 or
10 residential burglary conditioned upon the offender: (i) Successfully
11 completing twenty-one days in a work release program, (ii) having no
12 convictions for burglary in the second degree or residential burglary
13 during the preceding two years and not more than two prior convictions
14 for burglary or residential burglary, (iii) having no convictions for
15 a violent felony offense during the preceding two years and not more
16 than two prior convictions for a violent felony offense, (iv) having no
17 prior charges of escape, and (v) fulfilling the other conditions of the
18 home detention program.

19 (b) Participation in a home detention program shall be conditioned
20 upon: (i) The offender obtaining or maintaining current employment or
21 attending a regular course of school study at regularly defined hours,
22 or the offender performing parental duties to offspring or minors
23 normally in the custody of the offender, (ii) abiding by the rules of
24 the home detention program, and (iii) compliance with court-ordered
25 legal financial obligations. The home detention program may also be
26 made available to offenders whose charges and convictions do not
27 otherwise disqualify them if medical or health-related conditions,
28 concerns or treatment would be better addressed under the home
29 detention program, or where the health and welfare of the offender,
30 other inmates, or staff would be jeopardized by the offender's
31 incarceration. Participation in the home detention program for medical
32 or health-related reasons is conditioned on the offender abiding by the
33 rules of the home detention program and complying with court-ordered
34 restitution.

35 **Sec. 203.** RCW 26.12.010 and 1991 c 367 s 11 are each amended to
36 read as follows:

37 (1) Each superior court shall exercise the jurisdiction conferred
38 by this chapter and while sitting in the exercise of such jurisdiction

1 shall be known and referred to as the "family court." A family law
2 proceeding under this chapter is any proceeding under this title or any
3 proceeding in which the family court is requested to adjudicate or
4 enforce the rights of the parties or their children regarding the
5 determination or modification of parenting plans, child custody,
6 visitation, or support, or the distribution of property or obligations.

7 (2) Superior court judges of a county may by majority vote, grant
8 to the family court the power, authority, and jurisdiction, concurrent
9 with the juvenile court, to hear and decide cases under Title 13 RCW.

10 **Sec. 204.** RCW 13.04.021 and 1988 c 232 s 3 are each amended to
11 read as follows:

12 (1) The juvenile court shall be a division of the superior court.
13 In judicial districts having more than one judge of the superior court,
14 the judges of such court shall annually assign one or more of their
15 number to the juvenile court division. In any judicial district having
16 a court commissioner, the court commissioner shall have the power,
17 authority, and jurisdiction, concurrent with a juvenile court judge, to
18 hear all cases under this chapter and to enter judgment and make orders
19 with the same power, force, and effect as any judge of the juvenile
20 court, subject to motion or demand by any party within ten days from
21 the entry of the order or judgment by the court commissioner as
22 provided in RCW 2.24.050. In any judicial district having a family law
23 commissioner appointed pursuant to chapter 26.12 RCW, the family law
24 commissioner shall have the power, authority, and jurisdiction,
25 concurrent with a juvenile court judge, to hear cases under chapter
26 13.34 RCW or any other case under Title 13 RCW as provided in RCW
27 26.12.010, and to enter judgment and make orders with the same power,
28 force, and effect as any judge of the juvenile court, subject to motion
29 or demand by any party within ten days from the entry of the order or
30 judgment by the court commissioner as provided in RCW 2.24.050.

31 (2) Cases in the juvenile court shall be tried without a jury.

32 **Sec. 205.** RCW 72.76.010 and 1989 c 177 s 3 are each amended to
33 read as follows:

34 The Washington intrastate corrections compact is enacted and
35 entered into on behalf of this state by the department with any and all
36 counties of this state legally joining in a form substantially as
37 follows:

WASHINGTON INTRASTATE CORRECTIONS

COMPACT

A compact is entered into by and among the contracting counties and the department of corrections, signatories hereto, for the purpose of maximizing the use of existing resources and to provide adequate facilities and programs for the confinement, care, treatment, and employment of offenders.

The contracting counties and the department do solemnly agree that:

(1) As used in this compact, unless the context clearly requires otherwise:

(a) "Department" means the Washington state department of corrections.

(b) "Secretary" means the secretary of the department of corrections or designee.

(c) "Compact jurisdiction" means the department of corrections or any county of the state of Washington which has executed this compact.

(d) "Sending jurisdiction" means a county party to this agreement or the department of corrections to whom the courts have committed custody of the offender.

(e) "Receiving jurisdiction" means the department of corrections or a county party to this agreement to which an offender is sent for confinement.

(f) "Offender" means a person who has been charged with and/or convicted of an offense established by applicable statute or ordinance.

(g) "Convicted felony offender" means a person who has been convicted of a felony established by state law and is eighteen years of age or older, or who is less than eighteen years of age, but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110 or has been tried in a criminal court pursuant to RCW 13.04.030(1)(e)(iv).

(h) An "offender day" includes the first day an offender is delivered to the receiving jurisdiction, but ends at midnight of the day immediately preceding the day of the offender's release or return to the custody of the sending jurisdiction.

(i) "Facility" means any state correctional institution, camp, or other unit established or authorized by law under the jurisdiction of the department of corrections; any jail, holding, detention, special detention, or correctional facility operated by the county for the housing of adult offenders; or any contract facility, operated on

1 behalf of either the county or the state for the housing of adult
2 offenders.

3 (j) "Extraordinary medical expense" means any medical expense
4 beyond that which is normally provided by contract or other health care
5 providers at the facility of the receiving jurisdiction.

6 (k) "Compact" means the Washington intrastate corrections compact.

7 (2)(a) Any county may make one or more contracts with one or more
8 counties, the department, or both for the exchange or transfer of
9 offenders pursuant to this compact. Appropriate action by ordinance,
10 resolution, or otherwise in accordance with the law of the governing
11 bodies of the participating counties shall be necessary before the
12 contract may take effect. The secretary is authorized and requested to
13 execute the contracts on behalf of the department. Any such contract
14 shall provide for:

15 (i) Its duration;

16 (ii) Payments to be made to the receiving jurisdiction by the
17 sending jurisdiction for offender maintenance, extraordinary medical
18 and dental expenses, and any participation in or receipt by offenders
19 of rehabilitative or correctional services, facilities, programs, or
20 treatment not reasonably included as part of normal maintenance;

21 (iii) Participation in programs of offender employment, if any; the
22 disposition or crediting of any payments received by offenders on their
23 accounts; and the crediting of proceeds from or the disposal of any
24 products resulting from the employment;

25 (iv) Delivery and retaking of offenders;

26 (v) Such other matters as may be necessary and appropriate to fix
27 the obligations, responsibilities and rights of the sending and
28 receiving jurisdictions.

29 (b) The terms and provisions of this compact shall be a part of any
30 contract entered into by the authority of or pursuant to the contract.
31 Nothing in any contract may be inconsistent with the compact.

32 (3)(a) Whenever the duly constituted authorities of any compact
33 jurisdiction decide that confinement in, or transfer of an offender to
34 a facility of another compact jurisdiction is necessary or desirable in
35 order to provide adequate housing and care or an appropriate program of
36 rehabilitation or treatment, the officials may direct that the
37 confinement be within a facility of the other compact jurisdiction, the
38 receiving jurisdiction to act in that regard solely as agent for the
39 sending jurisdiction.

1 (b) The receiving jurisdiction shall be responsible for the
2 supervision of all offenders which it accepts into its custody.

3 (c) The receiving jurisdiction shall be responsible to establish
4 screening criteria for offenders it will accept for transfer. The
5 sending jurisdiction shall be responsible for ensuring that all
6 transferred offenders meet the screening criteria of the receiving
7 jurisdiction.

8 (d) The sending jurisdiction shall notify the sentencing courts of
9 the name, charges, cause numbers, date, and place of transfer of any
10 offender, prior to the transfer, on a form to be provided by the
11 department. A copy of this form shall accompany the offender at the
12 time of transfer.

13 (e) The receiving jurisdiction shall be responsible for providing
14 an orientation to each offender who is transferred. The orientation
15 shall be provided to offenders upon arrival and shall address the
16 following conditions at the facility of the receiving jurisdiction:

17 (i) Requirements to work;

18 (ii) Facility rules and disciplinary procedures;

19 (iii) Medical care availability; and

20 (iv) Visiting.

21 (f) Delivery and retaking of inmates shall be the responsibility of
22 the sending jurisdiction. The sending jurisdiction shall deliver
23 offenders to the facility of the receiving jurisdiction where the
24 offender will be housed, at the dates and times specified by the
25 receiving jurisdiction. The receiving jurisdiction retains the right
26 to refuse or return any offender. The sending jurisdiction shall be
27 responsible to retake any transferred offender who does not meet the
28 screening criteria of the receiving jurisdiction, or who is refused by
29 the receiving jurisdiction. If the receiving jurisdiction has notified
30 the sending jurisdiction to retake an offender, but the sending
31 jurisdiction does not do so within a seven-day period, the receiving
32 jurisdiction may return the offender to the sending jurisdiction at the
33 expense of the sending jurisdiction.

34 (g) Offenders confined in a facility under the terms of this
35 compact shall at all times be subject to the jurisdiction of the
36 sending jurisdiction and may at any time be removed from the facility
37 for transfer to another facility within the sending jurisdiction, for
38 transfer to another facility in which the sending jurisdiction may have
39 a contractual or other right to confine offenders, for release or

1 discharge, or for any other purpose permitted by the laws of the state
2 of Washington.

3 (h) Unless otherwise agreed, the sending jurisdiction shall provide
4 at least one set of the offender's personal clothing at the time of
5 transfer. The sending jurisdiction shall be responsible for searching
6 the clothing to ensure that it is free of contraband. The receiving
7 jurisdiction shall be responsible for providing work clothing and
8 equipment appropriate to the offender's assignment.

9 (i) The sending jurisdiction shall remain responsible for the
10 storage of the offender's personal property, unless prior arrangements
11 are made with the receiving jurisdiction. The receiving jurisdiction
12 shall provide a list of allowable items which may be transferred with
13 the offender.

14 (j) Copies or summaries of records relating to medical needs,
15 behavior, and classification of the offender shall be transferred by
16 the sending jurisdiction to the receiving jurisdiction at the time of
17 transfer. At a minimum, such records shall include:

18 (i) A copy of the commitment order or orders legally authorizing
19 the confinement of the offender;

20 (ii) A copy of the form for the notification of the sentencing
21 courts required by subsection (3)(d) of this section;

22 (iii) A brief summary of any known criminal history, medical needs,
23 behavioral problems, and other information which may be relevant to the
24 classification of the offender; and

25 (iv) A standard identification card which includes the fingerprints
26 and at least one photograph of the offender.

27 Disclosure of public records shall be the responsibility of the sending
28 jurisdiction, except for those documents generated by the receiving
29 jurisdiction.

30 (k) The receiving jurisdiction shall be responsible for providing
31 regular medical care, including prescription medication, but
32 extraordinary medical expenses shall be the responsibility of the
33 sending jurisdiction. The costs of extraordinary medical care incurred
34 by the receiving jurisdiction for transferred offenders shall be
35 reimbursed by the sending jurisdiction. The receiving jurisdiction
36 shall notify the sending jurisdiction as far in advance as practicable
37 prior to incurring such costs. In the event emergency medical care is
38 needed, the sending jurisdiction shall be advised as soon as
39 practicable after the offender is treated. Offenders who are required

1 by the medical authority of the sending jurisdiction to take
2 prescription medication at the time of the transfer shall have at least
3 a three-day supply of the medication transferred to the receiving
4 jurisdiction with the offender, and at the expense of the sending
5 jurisdiction. Costs of prescription medication incurred after the use
6 of the supply shall be borne by the receiving jurisdiction.

7 (l) Convicted offenders transferred under this agreement may be
8 required by the receiving jurisdiction to work. Transferred offenders
9 participating in programs of offender employment shall receive the same
10 reimbursement, if any, as other offenders performing similar work. The
11 receiving jurisdiction shall be responsible for the disposition or
12 crediting of any payments received by offenders, and for crediting the
13 proceeds from or disposal of any products resulting from the
14 employment. Other programs normally provided to offenders by the
15 receiving jurisdiction such as education, mental health, or substance
16 abuse treatment shall also be available to transferred offenders,
17 provided that usual program screening criteria are met. No special or
18 additional programs will be provided except by mutual agreement of the
19 sending and receiving jurisdiction, with additional expenses, if any,
20 to be borne by the sending jurisdiction.

21 (m) The receiving jurisdiction shall notify offenders upon arrival
22 of the rules of the jurisdiction and the specific rules of the
23 facility. Offenders will be required to follow all rules of the
24 receiving jurisdiction. Disciplinary detention, if necessary, shall be
25 provided at the discretion of the receiving jurisdiction. The
26 receiving jurisdiction may require the sending jurisdiction to retake
27 any offender found guilty of a serious infraction; similarly, the
28 receiving jurisdiction may require the sending jurisdiction to retake
29 any offender whose behavior requires segregated or protective housing.

30 (n) Good-time calculations and notification of each offender's
31 release date shall be the responsibility of the sending jurisdiction.
32 The sending jurisdiction shall provide the receiving jurisdiction with
33 a formal notice of the date upon which each offender is to be released
34 from custody. If the receiving jurisdiction finds an offender guilty
35 of a violation of its disciplinary rules, it shall notify the sending
36 jurisdiction of the date and nature of the violation. If the sending
37 jurisdiction resets the release date according to its good-time
38 policies, it shall provide the receiving jurisdiction with notice of
39 the new release date.

1 (o) The sending jurisdiction shall retake the offender at the
2 receiving jurisdiction's facility on or before his or her release date,
3 unless the sending and receiving jurisdictions shall agree upon release
4 in some other place. The sending jurisdiction shall bear the
5 transportation costs of the return.

6 (p) Each receiving jurisdiction shall provide monthly reports to
7 each sending jurisdiction on the number of offenders of that sending
8 jurisdiction in its facilities pursuant to this compact.

9 (q) Each party jurisdiction shall notify the others of its
10 coordinator who is responsible for administrating the jurisdiction's
11 responsibilities under the compact. The coordinators shall arrange for
12 alternate contact persons in the event of an extended absence of the
13 coordinator.

14 (r) Upon reasonable notice, representatives of any party to this
15 compact shall be allowed to visit any facility in which another party
16 has agreed to house its offenders, for the purpose of inspecting the
17 facilities and visiting its offenders that may be confined in the
18 institution.

19 (4) This compact shall enter into force and become effective and
20 binding upon the participating parties when it has been executed by two
21 or more parties. Upon request, each party county shall provide any
22 other compact jurisdiction with a copy of a duly enacted resolution or
23 ordinance authorizing entry into this compact.

24 (5) A party participating may withdraw from the compact by formal
25 resolution and by written notice to all other parties then
26 participating. The withdrawal shall become effective, as it pertains
27 to the party wishing to withdraw, thirty days after written notice to
28 the other parties. However, such withdrawal shall not relieve the
29 withdrawing party from its obligations assumed prior to the effective
30 date of withdrawal. Before the effective date of withdrawal, a
31 withdrawing participant shall notify the other parties to retake the
32 offenders it has housed in its facilities and shall remove to its
33 facilities, at its own expense, offenders it has confined under the
34 provisions of this compact.

35 (6) Legal costs relating to defending actions brought by an
36 offender challenging his or her transfer to another jurisdiction under
37 this compact shall be borne by the sending jurisdiction. Legal costs
38 relating to defending actions arising from events which occur while the

1 offender is in the custody of a receiving jurisdiction shall be borne
2 by the receiving jurisdiction.

3 (7) The receiving jurisdiction shall not be responsible to provide
4 legal services to offenders placed under this agreement. Requests for
5 legal services shall be referred to the sending jurisdiction.

6 (8) The provisions of this compact shall be liberally construed and
7 shall be severable. If any phrase, clause, sentence, or provision of
8 this compact is declared to be contrary to the Constitution or laws of
9 the state of Washington or is held invalid, the validity of the
10 remainder of this compact and its applicability to any county or the
11 department shall not be affected.

12 (9) Nothing contained in this compact shall be construed to
13 abrogate or impair any agreement or other arrangement which a county or
14 the department may have with each other or with a nonparty county for
15 the confinement, rehabilitation, or treatment of offenders.

16 NEW SECTION. **Sec. 206.** Provisions governing exceptions to
17 juvenile court jurisdiction in the amendments to RCW 13.04.030
18 contained in section 201 of this act shall apply to serious violent and
19 violent offenses committed on or after the effective date of section
20 201 of this act. The criminal history which may result in loss of
21 juvenile court jurisdiction upon the alleged commission of a serious
22 violent or violent offense may have been acquired on, before, or after
23 the effective date of section 201 of this act.

24 NEW SECTION. **Sec. 207.** A new section is added to chapter 13.40
25 RCW to read as follows:

26 To reduce the likelihood that implementation of this chapter will
27 differentially and unjustifiably affect the outcomes of cases involving
28 youth of color accused of crimes, all youth prosecuted for offenses
29 under this chapter must be charged and prosecuted in accordance with
30 the prosecutorial guidelines developed in accordance with section 8,
31 chapter 415, Laws of 1993 as amended by section 208, chapter . . . ,
32 Laws of 1994 (section 208 of this act). Prosecutors shall also apply
33 those guidelines when filing charges which will result in a juvenile
34 under eighteen being prosecuted as an adult pursuant to RCW 13.04.030.

35 **Sec. 208.** 1993 c 415 s 8 (uncodified) is amended to read as
36 follows:

1 The administrator for the courts shall convene a working group to
2 develop standards and guidelines for the prosecution of juvenile
3 offenders under Title 13 RCW, review any racial disproportionality in
4 diversion, and review the use of detention facilities in a way to
5 reduce racial disproportionality. The administrator shall appoint:

6 (1) One defense attorney familiar with juvenile justice, and three
7 prosecuting attorneys familiar with juvenile justice;

8 (2) One superior court judge;

9 (3) One court commissioner;

10 (4) One juvenile court administrator;

11 (5) One representative of the juvenile disposition standards board;

12 (6) One representative of the department of social and health
13 services;

14 (7) One social researcher with expertise in juvenile or criminal
15 justice;

16 (8) Two representatives of child advocacy groups recommended by the
17 governor; and

18 (9) Two persons recommended jointly by the Washington state
19 minority commissions.

20 Prosecutorial guidelines for charging youth under chapter 13.40 RCW
21 and for filing charges against youth which will or may result in youth
22 being prosecuted as adults under RCW 13.04.030(1)(e)(iv) or 13.40.100
23 shall be racially neutral. The standards shall also include a review
24 mechanism to ensure that the standards result in equitable and racially
25 neutral filing and prosecution practices. The work group shall develop
26 and submit its recommended standards and guidelines to the appropriate
27 committees of the legislature by December 1, 1994.

28 **PART III - THEFT OF FIREARMS**

29 NEW SECTION. Sec. 301. A new section is added to chapter 9A.56
30 RCW to read as follows:

31 (1) A person is guilty of theft of a firearm if the person:

32 (a) Commits a theft of a firearm;

33 (b) Is in possession of a stolen firearm;

34 (c) Delivers a stolen firearm;

35 (d) Possesses with intent to deliver a stolen firearm; or

36 (e) Sells a stolen firearm.

37 (2) This section applies regardless of the stolen firearm's value.

1 (3) "Possession of a stolen firearm" as used in this section has
2 the same meaning as "possessing stolen property" in RCW 9A.56.140.

3 (4) Theft of a firearm is a class B felony.

4 **Sec. 302.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to
5 read as follows:

6 (1) A person is guilty of theft in the second degree if he or she
7 commits theft of:

8 (a) Property or services which exceed(s) two hundred and fifty
9 dollars in value, but does not exceed one thousand five hundred dollars
10 in value; or

11 (b) A public record, writing, or instrument kept, filed, or
12 deposited according to law with or in the keeping of any public office
13 or public servant; or

14 (c) An access device; or

15 (d) A motor vehicle, of a value less than one thousand five hundred
16 dollars(~~(; or~~

17 ~~(e) A firearm, of a value less than one thousand five hundred~~
18 ~~dollars)).~~

19 (2) Theft in the second degree is a class C felony.

20 **Sec. 303.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to
21 read as follows:

22 (1) A person is guilty of possessing stolen property in the second
23 degree if:

24 (a) He or she possesses stolen property which exceeds two hundred
25 fifty dollars in value but does not exceed one thousand five hundred
26 dollars in value; or

27 (b) He or she possesses a stolen public record, writing or
28 instrument kept, filed, or deposited according to law; or

29 (c) He or she possesses a stolen access device; or

30 (d) He or she possesses a stolen motor vehicle of a value less than
31 one thousand five hundred dollars(~~(; or~~

32 ~~(e) He possesses a stolen firearm)).~~

33 (2) Possessing stolen property in the second degree is a class C
34 felony.

35

PART IV - RECKLESS ENDANGERMENT

1 **Sec. 401.** RCW 9A.36.045 and 1989 c 271 s 109 are each amended to
2 read as follows:

3 (1) A person is guilty of reckless endangerment in the first degree
4 when he or she recklessly discharges a firearm in a manner which
5 creates a substantial risk of death or serious physical injury to
6 another person and the discharge is either from a motor vehicle or from
7 the immediate area of a motor vehicle that was used to transport the
8 shooter or the firearm to the scene of the discharge.

9 (2) A person who unlawfully discharges a firearm from a moving
10 motor vehicle may be inferred to have engaged in reckless conduct,
11 unless the discharge is shown by evidence satisfactory to the trier of
12 fact to have been made without such recklessness.

13 (3) Reckless endangerment in the first degree is a class ((C)) B
14 felony.

15 **PART V - ADULT SENTENCING**

16 **Sec. 501.** RCW 9.94A.310 and 1992 c 145 s 9 are each amended to
17 read as follows:

18 (1) TABLE 1

19 Sentencing Grid

20 SERIOUSNESS										
21 SCORE	22 OFFENDER SCORE									23 9 or
24	0	1	2	3	4	5	6	7	8	more
25 XV	26 Life Sentence without Parole/Death Penalty									
27 XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
28	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
29	320	333	347	361	374	388	416	450	493	548
30	31									
31 XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
32	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
33	164	178	192	205	219	233	260	288	342	397
34										

1	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
2		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
3		123	136	147	160	171	184	216	236	277	318
4											
5	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
6		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
7		102	114	125	136	147	158	194	211	245	280
8											
9	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
10		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
11		68	75	82	89	96	102	130	144	171	198
12											
13	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
14		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
15		41	48	54	61	68	75	102	116	144	171
16											
17	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
18		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
19		27	34	41	48	54	61	89	102	116	144
20											
21	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
22		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
23		20	27	34	41	48	54	75	89	102	116
24											
25	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
26		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
27		14	20	27	34	41	48	61	75	89	102
28											
29	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
30		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
31		12	14	17	20	29	43	54	68	82	96
32											
33	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
34		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
35		9	12	14	17	20	29	43	57	70	84
36											

1	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
2		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
3		3	8	12	12	16	22	29	43	57	68
4	<hr/>										
5	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
6		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
7		Days	6	9	12	14	18	22	29	43	57
8	<hr/>										
9	I		3m	4m	5m	8m	13m	16m	20m	2y2m	
10		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
11		Days	Days	5	6	8	12	14	18	22	29
12	<hr/>										

13 NOTE: Numbers in the first horizontal row of each seriousness category
14 represent sentencing midpoints in years(y) and months(m). Numbers in
15 the second and third rows represent presumptive sentencing ranges in
16 months, or in days if so designated. 12+ equals one year and one day.

17 (2) For persons convicted of the anticipatory offenses of criminal
18 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
19 presumptive sentence is determined by locating the sentencing grid
20 sentence range defined by the appropriate offender score and the
21 seriousness level of the completed crime, and multiplying the range by
22 75 percent.

23 (3) The following additional times shall be added to the
24 presumptive sentence if the offender or an accomplice was armed with a
25 deadly weapon as defined in this chapter and the offender is being
26 sentenced for one of the crimes listed in this subsection. If the
27 offender or an accomplice was armed with a deadly weapon and the
28 offender is being sentenced for an anticipatory offense under chapter
29 9A.28 RCW to commit one of the crimes listed in this subsection, the
30 following times shall be added to the presumptive range determined
31 under subsection (2) of this section:

32 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW
33 9A.56.200), or Kidnapping 1 (RCW 9A.40.020);

34 (b) 18 months for Burglary 1 (RCW 9A.52.020);

35 (c) 12 months for (~~Assault 2 (RCW 9A.36.020 or 9A.36.021),~~
36 ~~Assault of a Child 2 (RCW 9A.36.130))~~ any violent offense except as
37 provided in (a) and (b) of this subsection, Escape 1 (RCW 9A.76.110),
38 (~~Kidnapping 2 (RCW 9A.40.030),~~) Burglary 2 of a building other than

1 a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080),
2 or any drug offense.

3 (4) The following additional times shall be added to the
4 presumptive sentence if the offender or an accomplice committed the
5 offense while in a county jail or state correctional facility as that
6 term is defined in this chapter and the offender is being sentenced for
7 one of the crimes listed in this subsection. If the offender or an
8 accomplice committed one of the crimes listed in this subsection while
9 in a county jail or state correctional facility as that term is defined
10 in this chapter, and the offender is being sentenced for an
11 anticipatory offense under chapter 9A.28 RCW to commit one of the
12 crimes listed in this subsection, the following times shall be added to
13 the presumptive sentence range determined under subsection (2) of this
14 section:

15 (a) Eighteen months for offenses committed under RCW
16 69.50.401(a)(1)(i) or 69.50.410;

17 (b) Fifteen months for offenses committed under RCW
18 69.50.401(a)(1)(ii), (iii), and (iv);

19 (c) Twelve months for offenses committed under RCW 69.50.401(d).

20 For the purposes of this subsection, all of the real property of
21 a state correctional facility or county jail shall be deemed to be part
22 of that facility or county jail.

23 (5) An additional twenty-four months shall be added to the
24 presumptive sentence for any ranked offense involving a violation of
25 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

26 **Sec. 502.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are
27 each reenacted and amended to read as follows:

28 TABLE 2

29 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

30	XV	Aggravated Murder 1 (RCW 10.95.020)
31	XIV	Murder 1 (RCW 9A.32.030)
32		Homicide by abuse (RCW 9A.32.055)
33	XIII	Murder 2 (RCW 9A.32.050)

1 XII Assault 1 (RCW 9A.36.011)
2 Assault of a Child 1 (RCW 9A.36.120)
3 XI Rape 1 (RCW 9A.44.040)
4 Rape of a Child 1 (RCW 9A.44.073)
5 X Kidnapping 1 (RCW 9A.40.020)
6 Rape 2 (RCW 9A.44.050)
7 Rape of a Child 2 (RCW 9A.44.076)
8 Child Molestation 1 (RCW 9A.44.083)
9 Damaging building, etc., by explosion with
10 threat to human being (RCW
11 70.74.280(1))
12 Over 18 and deliver heroin or narcotic from
13 Schedule I or II to someone under 18
14 (RCW 69.50.406)
15 Leading Organized Crime (RCW
16 9A.82.060(1)(a))
17 IX Assault of a Child 2 (RCW 9A.36.130)
18 Robbery 1 (RCW 9A.56.200)
19 Manslaughter 1 (RCW 9A.32.060)
20 Explosive devices prohibited (RCW 70.74.180)
21 Indecent Liberties (with forcible
22 compulsion) (RCW 9A.44.100(1)(a))
23 Endangering life and property by explosives
24 with threat to human being (RCW
25 70.74.270)
26 Over 18 and deliver narcotic from Schedule
27 III, IV, or V or a nonnarcotic from
28 Schedule I-V to someone under 18 and 3
29 years junior (RCW 69.50.406)
30 Controlled Substance Homicide (RCW
31 69.50.415)
32 Sexual Exploitation (RCW 9.68A.040)
33 Inciting Criminal Profiteering (RCW
34 9A.82.060(1)(b))

1 VIII Arson 1 (RCW 9A.48.020)
2 Promoting Prostitution 1 (RCW 9A.88.070)
3 Selling for profit (controlled or
4 counterfeit) any controlled substance
5 (RCW 69.50.410)
6 Manufacture, deliver, or possess with intent
7 to deliver heroin or cocaine (RCW
8 69.50.401(a)(1)(i))
9 Manufacture, deliver, or possess with intent
10 to deliver methamphetamine (RCW
11 69.50.401(a)(1)(ii))
12 Vehicular Homicide, by being under the
13 influence of intoxicating liquor or any
14 drug or by the operation of any vehicle
15 in a reckless manner (RCW 46.61.520)

16 VII Burglary 1 (RCW 9A.52.020)
17 Vehicular Homicide, by disregard for the
18 safety of others (RCW 46.61.520)
19 Introducing Contraband 1 (RCW 9A.76.140)
20 Indecent Liberties (without forcible
21 compulsion) (RCW 9A.44.100(1) (b) and
22 (c))
23 Child Molestation 2 (RCW 9A.44.086)
24 Dealing in depictions of minor engaged in
25 sexually explicit conduct (RCW
26 9.68A.050)
27 Sending, bringing into state depictions of
28 minor engaged in sexually explicit
29 conduct (RCW 9.68A.060)
30 Involving a minor in drug dealing (RCW
31 69.50.401(f))

32 VI Bribery (RCW 9A.68.010)
33 Manslaughter 2 (RCW 9A.32.070)
34 Rape of a Child 3 (RCW 9A.44.079)
35 Intimidating a Juror/Witness (RCW 9A.72.110,
36 9A.72.130)

1 Damaging building, etc., by explosion with
2 no threat to human being (RCW
3 70.74.280(2))
4 Endangering life and property by explosives
5 with no threat to human being (RCW
6 70.74.270)
7 Incest 1 (RCW 9A.64.020(1))
8 Manufacture, deliver, or possess with intent
9 to deliver narcotics from Schedule I or
10 II (except heroin or cocaine) (RCW
11 69.50.401(a)(1)(i))
12 Intimidating a Judge (RCW 9A.72.160)
13 Bail Jumping with Murder 1 (RCW
14 9A.76.170(2)(a))
15 V Theft of a Firearm (section 301 of this act)
16 Reckless Endangerment 1 (RCW 9A.36.045)
17 Criminal Mistreatment 1 (RCW 9A.42.020)
18 Rape 3 (RCW 9A.44.060)
19 Sexual Misconduct with a Minor 1 (RCW
20 9A.44.093)
21 Child Molestation 3 (RCW 9A.44.089)
22 Kidnapping 2 (RCW 9A.40.030)
23 Extortion 1 (RCW 9A.56.120)
24 Incest 2 (RCW 9A.64.020(2))
25 Perjury 1 (RCW 9A.72.020)
26 Extortionate Extension of Credit (RCW
27 9A.82.020)
28 Advancing money or property for extortionate
29 extension of credit (RCW 9A.82.030)
30 Extortionate Means to Collect Extensions of
31 Credit (RCW 9A.82.040)
32 Rendering Criminal Assistance 1 (RCW
33 9A.76.070)
34 Bail Jumping with class A Felony (RCW
35 9A.76.170(2)(b))
36 Delivery of imitation controlled substance
37 by person eighteen or over to person
38 under eighteen (RCW 69.52.030(2))

1 IV Residential Burglary (RCW 9A.52.025)
2 Theft of Livestock 1 (RCW 9A.56.080)
3 Robbery 2 (RCW 9A.56.210)
4 Assault 2 (RCW 9A.36.021)
5 Escape 1 (RCW 9A.76.110)
6 Arson 2 (RCW 9A.48.030)
7 Bribing a Witness/Bribe Received by Witness
8 (RCW 9A.72.090, 9A.72.100)
9 Malicious Harassment (RCW 9A.36.080)
10 Threats to Bomb (RCW 9.61.160)
11 Willful Failure to Return from Furlough (RCW
12 72.66.060)
13 Hit and Run « Injury Accident (RCW
14 46.52.020(4))
15 Vehicular Assault (RCW 46.61.522)
16 Manufacture, deliver, or possess with intent
17 to deliver narcotics from Schedule III,
18 IV, or V or nonnarcotics from Schedule
19 I-V (except marijuana or
20 methamphetamines) (RCW
21 69.50.401(a)(1)(ii) through (iv))
22 Influencing Outcome of Sporting Event (RCW
23 9A.82.070)
24 Use of Proceeds of Criminal Profiteering
25 (RCW 9A.82.080 (1) and (2))
26 Knowingly Trafficking in Stolen Property
27 (RCW 9A.82.050(2))
28 III Criminal mistreatment 2 (RCW 9A.42.030)
29 Extortion 2 (RCW 9A.56.130)
30 Unlawful Imprisonment (RCW 9A.40.040)
31 Assault 3 (RCW 9A.36.031)
32 Assault of a Child 3 (RCW 9A.36.140)
33 Custodial Assault (RCW 9A.36.100)
34 Unlawful possession of firearm or pistol by felon (RCW
35 9.41.040)
36 Harassment (RCW 9A.46.020)
37 Promoting Prostitution 2 (RCW 9A.88.080)
38 Willful Failure to Return from Work Release
39 (RCW 72.65.070)

1 Burglary 2 (RCW 9A.52.030)
2 Introducing Contraband 2 (RCW 9A.76.150)
3 Communication with a Minor for Immoral
4 Purposes (RCW 9.68A.090)
5 Patronizing a Juvenile Prostitute (RCW
6 9.68A.100)
7 Escape 2 (RCW 9A.76.120)
8 Perjury 2 (RCW 9A.72.030)
9 Bail Jumping with class B or C Felony (RCW
10 9A.76.170(2)(c))
11 Intimidating a Public Servant (RCW
12 9A.76.180)
13 Tampering with a Witness (RCW 9A.72.120)
14 Manufacture, deliver, or possess with intent
15 to deliver marijuana (RCW
16 69.50.401(a)(1)(ii))
17 Delivery of a material in lieu of a
18 controlled substance (RCW 69.50.401(c))
19 Manufacture, distribute, or possess with
20 intent to distribute an imitation
21 controlled substance (RCW 69.52.030(1))
22 Recklessly Trafficking in Stolen Property
23 (RCW 9A.82.050(1))
24 Theft of livestock 2 (RCW 9A.56.080)
25 Securities Act violation (RCW 21.20.400)

26 II Malicious Mischief 1 (RCW 9A.48.070)
27 Possession of Stolen Property 1 (RCW
28 9A.56.150)
29 Theft 1 (RCW 9A.56.030)
30 Possession of controlled substance that is
31 either heroin or narcotics from
32 Schedule I or II (RCW 69.50.401(d))
33 Possession of phencyclidine (PCP) (RCW
34 69.50.401(d))
35 Create, deliver, or possess a counterfeit
36 controlled substance (RCW 69.50.401(b))

1 Computer Trespass 1 (RCW 9A.52.110)
2 ((~~Reckless Endangerment 1 (RCW 9A.36.045)~~))
3 Escape from Community Custody (RCW
4 72.09.310)

5 I Theft 2 (RCW 9A.56.040)
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Forgery (RCW 9A.60.020)
9 Taking Motor Vehicle Without Permission (RCW
10 9A.56.070)
11 Vehicle Prowl 1 (RCW 9A.52.095)
12 Attempting to Elude a Pursuing Police
13 Vehicle (RCW 46.61.024)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Reckless Burning 1 (RCW 9A.48.040)
16 Unlawful Issuance of Checks or Drafts (RCW
17 9A.56.060)
18 Unlawful Use of Food Stamps (RCW 9.91.140
19 (2) and (3))
20 False Verification for Welfare (RCW
21 74.08.055)
22 Forged Prescription (RCW 69.41.020)
23 Forged Prescription for a Controlled
24 Substance (RCW 69.50.403)
25 Possess Controlled Substance that is a
26 Narcotic from Schedule III, IV, or V or
27 Non-narcotic from Schedule I-V (except
28 phencyclidine) (RCW 69.50.401(d))

29 **PART VI - PERSONAL PROTECTION SPRAYS**

30 NEW SECTION. **Sec. 601.** A new section is added to chapter 9.91
31 RCW to read as follows:

32 (1) It is unlawful for a person under eighteen years old, unless
33 the person is at least fourteen years old and has the permission of a
34 parent or guardian to do so, to purchase or possess a personal
35 protection spray device. A violation of this subsection is a
36 misdemeanor.

1 (2) No town, city, county, special purpose district, quasi-
2 municipal corporation or other unit of government may prohibit a person
3 eighteen years old or older, or a person fourteen years old or older
4 who has the permission of a parent or guardian to do so, from
5 purchasing or possessing a personal protection spray device or from
6 using such a device in a manner consistent with the authorized use of
7 force under RCW 9A.16.020. No town, city, county, special purpose
8 district, quasi-municipal corporation, or other unit of government may
9 prohibit a person eighteen years old or older from delivering a
10 personal protection spray device to a person authorized to possess such
11 a device.

12 (3) For purposes of this section:

13 (a) "Personal protection spray device" means a commercially
14 available dispensing device designed and intended for use in self-
15 defense and containing a nonlethal sternutator or lacrimator agent,
16 including but not limited to:

17 (i) Tear gas, the active ingredient of which is either
18 chloracetophenone (CN) or O-chlorobenzylidene malonotrile (CS); or

19 (ii) Other agent commonly known as mace, pepper mace, or pepper
20 gas.

21 (b) "Delivering" means actual, constructive, or attempted
22 transferring from one person to another.

23 (4) Nothing in this section authorizes the delivery, purchase,
24 possession, or use of any device or chemical agent that is otherwise
25 prohibited by state law.

26 **PART VII - JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1994**

27 **A. ADMINISTRATION**

28 NEW SECTION. **Sec. 701.** The legislature finds that the incidence
29 of juvenile crime has escalated at an alarming rate, and that the
30 state's juvenile rehabilitation system needs major adjustments in order
31 to respond.

32 The current system lacks adequate bed space, adequate population
33 forecasting, an effective sentencing scheme, an appropriate inmate
34 classification system, and sufficient judicial discretion in sentencing
35 young offenders.

1 These defects have often resulted in sentences that are driven by
2 fiscal policy, and not by rehabilitative or punitive principles; and
3 Washington must develop a juvenile offender rehabilitation system
4 that truly emphasizes public safety, offender responsibility, and
5 offender rehabilitation.

6 **Sec. 702.** RCW 43.20A.090 and 1970 ex.s. c 18 s 7 are each amended
7 to read as follows:

8 The secretary shall appoint a deputy secretary, a department
9 personnel director and such assistant secretaries as shall be needed to
10 administer the department. The deputy secretary shall have charge and
11 general supervision of the department in the absence or disability of
12 the secretary, and in case of a vacancy in the office of secretary,
13 shall continue in charge of the department until a successor is
14 appointed and qualified, or until the governor shall appoint an acting
15 secretary. The secretary shall appoint an assistant secretary to
16 administer the juvenile rehabilitation responsibilities required of the
17 department by chapters 13.04, 13.40, and 13.50 RCW. The officers
18 appointed under this section, and exempt from the provisions of the
19 state civil service law by the terms of RCW 41.06.076, shall be paid
20 salaries to be fixed by the governor in accordance with the procedure
21 established by law for the fixing of salaries for officers exempt from
22 the operation of the state civil service law.

23 NEW SECTION. **Sec. 703.** A new section is added to chapter 13.40
24 RCW to read as follows:

25 The assistant secretary shall manage and administer the
26 department's juvenile rehabilitation responsibilities, including but
27 not limited to the operation of all state institutions or facilities
28 used for juvenile rehabilitation.

29 The assistant secretary shall:

30 (1) Prepare a biennial budget request sufficient to meet the
31 confinement and rehabilitative needs of the juvenile rehabilitation
32 program, as forecast by the office of financial management;

33 (2) Create by rule a formal system for inmate classification.

34 This classification system shall consider:

35 (a) Public safety;

36 (b) Internal security and staff safety; and

1 (c) Rehabilitative resources both within and outside the
2 department;

3 (3) Develop agreements with local jurisdictions to develop
4 regional facilities with a variety of custody levels;

5 (4) Adopt rules establishing effective disciplinary policies to
6 maintain order within institutions;

7 (5) Develop a comprehensive diagnostic evaluation process to be
8 used at intake, including but not limited to evaluation for substance
9 addiction or abuse, literacy, learning disabilities, fetal alcohol
10 syndrome or effect, attention deficit disorder, and mental health;

11 (6) Develop a plan to implement, by July 1, 1995:

12 (a) Substance abuse treatment programs for all state juvenile
13 rehabilitation facilities and institutions;

14 (b) Vocational education and instruction programs at all state
15 juvenile rehabilitation facilities and institutions; and

16 (c) An educational program to establish self-worth and
17 responsibility in juvenile offenders. This educational program shall
18 emphasize instruction in character-building principles such as:
19 Respect for self, others, and authority; victim awareness;
20 accountability; work ethics; good citizenship; and life skills; and

21 (7) Study, in conjunction with the superintendent of public
22 instruction, educators, and superintendents of state facilities for
23 juvenile offenders, the feasibility and value of consolidating within
24 a single entity the provision of educational services to juvenile
25 offenders committed to state facilities. The assistant secretary shall
26 report his or her findings to the legislature by December 1, 1995.

27 NEW SECTION. **Sec. 704.** A new section is added to chapter 13.40
28 RCW to read as follows:

29 The assistant secretary shall review the vocational education
30 curriculum, facilities, and teaching personnel in all juvenile
31 residential programs and report to the appropriate committees of the
32 legislature by December 12, 1994. The report shall include an
33 assessment of the number and types of vocational programs currently
34 available, and the status of buildings, teaching personnel, and
35 equipment currently used for vocational training. The report shall
36 also contain an action plan for implementing, by July 1, 1995, a state-
37 wide uniform prevocational and vocational education program, including
38 but not limited to, a projection of the need for the programs for both

1 female and male juvenile offenders, the number of students that could
2 benefit from the programs, projected vocational trade needs, physical
3 plant modifications or building needs, equipment needs, teaching
4 personnel needs, and estimated costs. In addition, the report shall
5 identify how the department can develop vocational programs jointly
6 with trade associations, trade unions, and other state, local, and
7 federal agencies. The department shall also identify businesses and
8 industries potentially interested in working with the program.

9 NEW SECTION. **Sec. 705.** A new section is added to chapter 13.40
10 RCW to read as follows:

11 The assistant secretary shall issue arrest warrants for juveniles
12 who escape from department residential custody. These arrest warrants
13 shall authorize any law enforcement, probation and parole, or peace
14 officer of this state, or any other state where the juvenile is
15 located, to arrest the juvenile and to place the juvenile in physical
16 custody pending the juvenile's return to confinement in a state
17 juvenile rehabilitation facility.

18 **Sec. 706.** RCW 13.50.010 and 1993 c 374 s 1 are each amended to
19 read as follows:

20 (1) For purposes of this chapter:

21 (a) "Juvenile justice or care agency" means any of the following:
22 Police, diversion units, court, prosecuting attorney, defense attorney,
23 detention center, attorney general, the department of social and health
24 services and its contracting agencies, schools, juvenile justice
25 advisory committees of county law and justice councils; and, in
26 addition, persons or public or private agencies having children
27 committed to their custody;

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

31 (c) "Social file" means the juvenile court file containing the
32 records and reports of the ((probation)) community supervision
33 counselor;

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

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

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

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

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

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

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

21 (5) Any person who has reasonable cause to believe information
22 concerning that person is included in the records of a juvenile justice
23 or care agency and who has been denied access to those records by the
24 agency may make a motion to the court for an order authorizing that
25 person to inspect the juvenile justice or care agency record concerning
26 that person. The court shall grant the motion to examine records
27 unless it finds that in the interests of justice or in the best
28 interests of the juvenile the records or parts of them should remain
29 confidential.

30 (6) A juvenile, or his or her parents, or any person who has
31 reasonable cause to believe information concerning that person is
32 included in the records of a juvenile justice or care agency may make
33 a motion to the court challenging the accuracy of any information
34 concerning the moving party in the record or challenging the continued
35 possession of the record by the agency. If the court grants the
36 motion, it shall order the record or information to be corrected or
37 destroyed.

38 (7) The person making a motion under subsection (5) or (6) of this
39 section shall give reasonable notice of the motion to all parties to

1 the original action and to any agency whose records will be affected by
2 the motion.

3 (8) The court may permit inspection of records by, or release of
4 information to, any clinic, hospital, or agency which has the subject
5 person under care or treatment, or to individuals or agencies engaged
6 in legitimate research for educational, scientific, or public purposes,
7 including juvenile justice advisory committees of county law and
8 justice councils. The court may also permit inspection of, or release
9 of information from, records which have been sealed pursuant to RCW
10 13.50.050(11). Access to records or information for research purposes
11 shall be permitted only if the anonymity of all persons mentioned in
12 the records or information will be preserved. Each person granted
13 permission to inspect juvenile justice or care agency records for
14 research purposes shall present a notarized statement to the court
15 stating that the names of juveniles and parents will remain
16 confidential.

17 (9) Juvenile detention facilities shall release records to the
18 juvenile disposition standards commission under RCW 13.40.025 upon
19 request. The commission shall not disclose the names of any juveniles
20 or parents mentioned in the records without the named individual's
21 written permission.

22 **Sec. 707.** RCW 72.09.300 and 1993 sp.s. c 21 s 8 are each amended
23 to read as follows:

24 (1) Every county legislative authority shall by resolution or
25 ordinance establish a local law and justice council. The county
26 legislative authority shall determine the size and composition of the
27 council, which shall include the county sheriff and a representative of
28 the municipal police departments within the county, the county
29 prosecutor and a representative of the municipal prosecutors within the
30 county, a representative of the city legislative authorities within the
31 county, a representative of the county's superior, juvenile, district,
32 and municipal courts, the county jail administrator, the county clerk,
33 the county risk manager, and the secretary of corrections. Officials
34 designated may appoint representatives.

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

1 (3) The local law and justice council shall develop a local law
2 and justice plan for the county. The council shall design the elements
3 and scope of the plan, subject to final approval by the county
4 legislative authority. The general intent of the plan shall include
5 seeking means to maximize local resources including personnel and
6 facilities, reduce duplication of services, and share resources between
7 local and state government in order to accomplish local efficiencies
8 without diminishing effectiveness. The plan shall also include a
9 section on jail management. This section may include the following
10 elements:

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

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

14 (c) A description of current jail resources;

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

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

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

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

24 (h) A proposed plan to collect, synthesize, and disseminate
25 technical information concerning local criminal justice activities,
26 facilities, and procedures;

27 (i) A description of existing and potential services for offenders
28 including employment services, substance abuse treatment, mental health
29 services, and housing referral services.

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

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

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

1 (7) The secretary may adopt rules for the submittal, review, and
2 approval of all requests for assistance made to the department. The
3 secretary may also appoint an advisory committee of local and state
4 government officials to recommend policies and procedures relating to
5 the state and local correctional systems and to assist the department
6 in providing technical assistance to local governments. The committee
7 shall include representatives of the county sheriffs, the police
8 chiefs, the county prosecuting attorneys, the county and city
9 legislative authorities, and the jail administrators. The secretary
10 may contract with other state and local agencies and provide funding in
11 order to provide the assistance requested by counties.

12 (8) The department shall establish a base level of state
13 correctional services, which shall be determined and distributed in a
14 consistent manner state-wide. The department's contributions to any
15 local government, approved pursuant to this section, shall not operate
16 to reduce this base level of services.

17 (9) The council shall establish an advisory committee on juvenile
18 justice proportionality. The council shall appoint the county juvenile
19 court administrator and at least five citizens as advisory committee
20 members. The citizen advisory committee members shall be
21 representative of the county's ethnic and geographic diversity. The
22 advisory committee members shall serve two-year terms and may be
23 reappointed. The duties of the advisory committee include:

24 (a) Monitoring and reporting to the juvenile disposition standards
25 commission on the proportionality, effectiveness, and cultural
26 relevance of:

27 (i) The rehabilitative goals required by juvenile offender
28 dispositions;

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

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

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

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

1 **Sec. 708.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to
2 read as follows:

3 No county shall be entitled to receive any state funds provided by
4 this chapter until its application and plan are approved, and unless
5 and until the minimum standards prescribed by the department of social
6 and health services are complied with and then only on such terms as
7 are set forth in this section. In addition, any county making
8 application for state funds under this chapter that also operates a
9 juvenile detention facility must have standards of operations in place
10 that include: Intake and admissions, medical and health care,
11 communication, correspondence, visiting and telephone use, security and
12 control, sanitation and hygiene, juvenile rights, rules and discipline,
13 property, juvenile records, safety and emergency procedures,
14 programming, release and transfer, training and staff development, and
15 food service.

16 (1) The distribution of funds to a county or a group of counties
17 shall be based on criteria including but not limited to the county's
18 per capita income, regional or county at-risk populations, juvenile
19 crime or arrest rates, rates of poverty, size of racial minority
20 populations, and existing programs~~((, and the effectiveness and
21 efficiency of consolidating local programs towards reducing commitments
22 to state correctional facilities for offenders whose standard range
23 disposition does not include commitment of the offender to the
24 department and reducing reliance on other traditional departmental
25 services))~~.

26 (2) The department may not place caps on commitments to the
27 department or otherwise limit a county's ability to commit juvenile
28 offenders to the department. The department's disbursement of funds under
29 this chapter may not be conditioned on the number of juveniles
30 committed to the department.

31 (3) The secretary will reimburse a county upon presentation and
32 approval of a valid claim pursuant to the provisions of this chapter
33 based on actual performance in meeting the terms and conditions of the
34 approved plan and contract. Funds received by participating counties
35 under this chapter shall not be used to replace local funds for
36 existing programs.

37 ~~((+3))~~ (4) The secretary, in conjunction with the human rights
38 commission, shall evaluate the effectiveness of programs funded under
39 this chapter in reducing racial disproportionality. The secretary

1 shall investigate whether implementation of such programs has reduced
2 disproportionality in counties with initially high levels of
3 disproportionality. The analysis shall indicate which programs are
4 cost-effective in reducing disproportionality in such areas as
5 alternatives to detention, intake and risk assessment standards
6 pursuant to RCW 13.40.038, alternatives to incarceration, and in the
7 prosecution and adjudication of juveniles. The secretary shall report
8 his or her findings to the appropriate committees of the legislature by
9 December 1, 1994, and December 1 of each year thereafter.

10 **B. STUDIES CONCERNING JUVENILE JUSTICE**

11 NEW SECTION. **Sec. 709.** The legislature finds that:

12 Local jurisdictions have difficulty administering and enforcing
13 the laws related to juvenile offenders;

14 These difficulties include the local jurisdictions' abilities to
15 arrest, adjudicate, confine, administer, and supervise juvenile
16 offenders;

17 These difficulties have resulted in significant delays in the
18 administration of justice to juvenile offenders;

19 These difficulties may be due to a number of factors, including,
20 but not necessarily limited to, resource limitations within the various
21 units of government charged with the responsibility for administering
22 and enforcing laws related to juvenile offenders.

23 Therefore, effective July 1, 1994, a special legislative committee
24 is created to assess the ability and needs of the state and local
25 jurisdictions to address adequately the administration of justice to
26 juvenile offenders. Specifically, this committee shall review the
27 implementation and administration of:

- 28 (1) Chapter 13.04 RCW, the basic juvenile court act;
29 (2) Chapter 13.06 RCW, consolidated juvenile services funding;
30 (3) Chapter 13.16 RCW, places of detention;
31 (4) Chapter 13.20 RCW, county detention facilities; and
32 (5) Chapter 13.40 RCW, the juvenile justice act of 1977.

33 The committee established under this section shall consist of two
34 members, who shall not be members of the same caucus, from each of the
35 following: The house of representatives committees on corrections,
36 judiciary, appropriations, human services, and capital budget; and the
37 senate committees on law and justice and health and human services; and

1 four members, no more than two of whom shall be members of the same
2 caucus, from the senate ways and means committee. The speaker of the
3 house of representatives shall appoint the members from the house of
4 representatives, and the president of the senate shall appoint the
5 members from the senate. This committee shall meet and conduct
6 hearings as often as is necessary to carry out its responsibilities
7 under this section.

8 The special committee shall receive access to all relevant
9 information necessary to monitor the conduct of agencies or employees.
10 All confidential information received by the special committee under
11 this section shall be kept confidential by members of the committee and
12 shall not be further disseminated unless specifically authorized by
13 state or federal law.

14 The special committee shall report its findings and make
15 recommendations regarding the issues and chapters cited in this section
16 in a report submitted to the legislature before the 1996 regular
17 session of the legislature.

18 The special committee, unless recreated by the legislature, shall
19 cease to exist after submitting the report required under this section.

20 NEW SECTION. Sec. 710. (1) The office of the administrator for
21 the courts shall convene a work group to recommend to the legislature
22 standards to guide the court's discretion at significant stages of the
23 juvenile justice process. The work group shall consist of two juvenile
24 court judges, two juvenile court administrators, two prosecuting
25 attorneys or deputy prosecuting attorneys actively practicing in
26 juvenile court, and two defense attorneys actively practicing in
27 juvenile court. The work group shall, by September 1, 1994, recommend
28 to the appropriate committees of the legislature standards to guide:

29 (a) The decision to defer adjudication;

30 (b) The decision to suspend a sentence;

31 (c) The setting of rehabilitative goals in a disposition order
32 that includes commitment to the department of social and health
33 services;

34 (d) The determination that a juvenile has or has not met the
35 rehabilitative goals during the term of commitment to the department of
36 social and health services; and

37 (e) The decision to set a date for a juvenile's release from the
38 department of social and health services' custody.

1 (2) The office of the administrator for the courts shall convene
2 a work group of at least five juvenile court administrators to
3 establish a state-wide uniform process for conducting the
4 predisposition, evaluation required by section 806, chapter . . . , Laws
5 of 1994 (section 806 of this act).

6 The work group shall, by January 1, 1995, provide to the office of
7 the administrator for the courts a recommendation for a state-wide
8 uniform evaluation process.

9 **C. JUVENILE DISPOSITION STANDARDS**

10 **Sec. 711.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to
11 read as follows:

12 For the purposes of this chapter:

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

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

17 (b) Manslaughter in the first degree; or

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

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

30 (3) "Community supervision" means an order of disposition by the
31 court of an adjudicated youth not committed to the department and an
32 order granting a deferred adjudication pursuant to section 714 of this
33 act. A community supervision order for a single offense may be for a
34 period of up to two years for a sex offense as defined by RCW 9.94A.030
35 and up to one year for other offenses. As a mandatory condition of any
36 term of community supervision, the court shall order the juvenile to
37 refrain from committing new offenses. As a mandatory condition of

1 community supervision, the court shall order the juvenile to comply
2 with the mandatory school attendance provisions of chapter 28A.225 RCW
3 and to inform the school of the existence of this requirement.

4 Community supervision is an individualized program comprised of one or
5 more of the following:

- 6 (a) Community-based sanctions;
- 7 (b) Community-based rehabilitation;
- 8 (c) Monitoring and reporting requirements;
- 9 (4) Community-based sanctions may include one or more of the
10 following:

- 11 (a) A fine, not to exceed one hundred dollars;
- 12 (b) Community service not to exceed one hundred fifty hours of
13 service;

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

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

29 (7) "Confinement" means physical custody by the department of
30 social and health services in a facility operated by or pursuant to a
31 contract with the state, or physical custody in a detention facility
32 operated by or pursuant to a contract with any county. The county may
33 operate or contract with vendors to operate county detention
34 facilities. "Confinement" includes state and county group homes,
35 foster care homes, inpatient substance abuse programs, juvenile basic
36 training camps, and electronic monitoring. The department may operate
37 or contract to operate detention facilities for juveniles committed to
38 the department. Pretrial confinement or confinement of less than
39 thirty-one days imposed as part of a disposition or modification order

1 may be served consecutively or intermittently, in the discretion of the
2 court and may be served in a detention group home, detention foster
3 home, or with electronic monitoring. Detention group homes and
4 detention foster homes used for confinement shall not also be used for
5 the placement of dependent children. Confinement in detention group
6 homes and detention foster homes and electronic monitoring are subject
7 to available funds;

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

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

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

16 (b) The criminal complaint was diverted by a prosecutor pursuant
17 to the provisions of this chapter on agreement of the respondent and
18 after an advisement to the respondent that the criminal complaint would
19 be considered as part of the respondent's criminal history.
20 Successfully completed deferred adjudications shall not be considered
21 part of the respondent's criminal history;

22 (10) "Department" means the department of social and health
23 services;

24 (11) "Detention facility" means a county facility for the physical
25 confinement of a juvenile alleged to have committed an offense or an
26 adjudicated offender subject to a disposition or modification order.
27 "Detention facility" includes county group homes, foster care homes,
28 inpatient substance abuse programs, juvenile basic training camps, and
29 electronic monitoring;

30 (12) "Diversion unit" means any (~~probation~~) community
31 supervision counselor who enters into a diversion agreement with an
32 alleged youthful offender, or any other person, community
33 accountability board, or other entity except a law enforcement official
34 or entity, with whom the juvenile court administrator has contracted to
35 arrange and supervise such agreements pursuant to RCW 13.40.080, or any
36 person, community accountability board, or other entity specially
37 funded by the legislature to arrange and supervise diversion agreements
38 in accordance with the requirements of this chapter. For purposes of
39 this subsection, "community accountability board" means a board

1 comprised of members of the local community in which the juvenile
2 offender resides. The superior court shall appoint the members. The
3 boards shall consist of at least three and not more than seven members.
4 If possible, the board should include a variety of representatives from
5 the community, such as a law enforcement officer, teacher or school
6 administrator, high school student, parent, and business owner, and
7 should represent the cultural diversity of the local community;

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

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

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

18 (16) "Manifest injustice" means a disposition that would either
19 impose an excessive penalty on the juvenile, would fail to promote the
20 juvenile's best rehabilitative interest, or would impose a serious, and
21 clear danger to society in light of the purposes of this chapter;

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

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

28 (a) Four misdemeanors;

29 (b) Two misdemeanors and one gross misdemeanor;

30 (c) One misdemeanor and two gross misdemeanors; or

31 (d) Three gross misdemeanors(~~(~~

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

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

1 For purposes of this definition, current violations shall be
2 counted as misdemeanors;

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

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

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

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

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

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

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

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

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

36 (28) "Deadly weapon" means a deadly weapon as defined in RCW
37 9.94A.125;

38 (29) "Assistant secretary" means the assistant secretary for
39 juvenile rehabilitation within the department;

1 (30) "Violent offense" means a violent offense as defined in RCW
2 9.94A.030;

3 (31) "Placement out of the home" means placement for twenty-four
4 hour residential care in foster or group care or with a court-approved
5 custodian. Placement out of the home in county or state-funded
6 placements is subject to available funds and beds.

7 **Sec. 712.** RCW 13.40.070 and 1992 c 205 s 107 are each amended to
8 read as follows:

9 (1) Complaints referred to the juvenile court alleging the
10 commission of an offense shall be referred directly to the prosecutor.
11 The prosecutor, upon receipt of a complaint, shall screen the complaint
12 to determine whether:

13 (a) The alleged facts bring the case within the jurisdiction of
14 the court; and

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

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

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

31 (4) An information shall be a plain, concise, and definite written
32 statement of the essential facts constituting the offense charged. It
33 shall be signed by the prosecuting attorney and conform to chapter
34 10.37 RCW.

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

37 (a) An alleged offender is accused of a class A felony, a class B
38 felony, an attempt to commit a class B felony, a class C felony listed

1 in RCW 9.94A.440(2) as a crime against persons or listed in RCW
2 9A.46.060 as a crime of harassment, a class C felony that is a
3 violation of RCW 9.41.080 or 9.41.040(1)(e), or any other offense
4 listed in RCW 13.40.020(1) (b) or (c); or

5 (b) An alleged offender is accused of a felony and has a criminal
6 history of ~~((at least one class A or class B felony, or two class C~~
7 ~~felonies)) any felony, or at least two gross misdemeanors, or at least
8 two misdemeanors ~~((and one additional misdemeanor or gross misdemeanor,~~
9 ~~or at least one class C felony and one misdemeanor or gross~~
10 ~~misdemeanor)); or~~~~

11 (c) An alleged offender has previously been committed to the
12 department; or

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

15 (e) An alleged offender has three or more diversion~~((s))~~ contracts
16 on the alleged offender's criminal history; or

17 (f) A special allegation has been filed that the offender or an
18 accomplice was armed with a deadly weapon when the offense was
19 committed.

20 (6) Where a case is legally sufficient the prosecutor shall divert
21 the case if the alleged offense is a misdemeanor or gross misdemeanor
22 or violation and the alleged ~~((offense(s) in combination with the~~
23 ~~alleged offender's criminal history do not exceed two offenses or~~
24 ~~violations and do not include any felonies: PROVIDED, That)) offense~~

25 is the offender's first offense or violation. If the alleged offender
26 is charged with a related offense that must or may be filed under
27 subsections (5) and (7) of this section, a case under this subsection
28 may also be filed.

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

35 (8) Whenever a juvenile is placed in custody or, where not placed
36 in custody, referred to a diversionary interview, the parent or legal
37 guardian of the juvenile shall be notified as soon as possible
38 concerning the allegation made against the juvenile and the current
39 status of the juvenile. Where a case involves victims of crimes

1 against persons or victims whose property has not been recovered at the
2 time a juvenile is referred to a diversionary unit, the victim shall be
3 notified of the referral and informed how to contact the unit.

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

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

17 **Sec. 713.** RCW 13.40.080 and 1992 c 205 s 108 are each amended to
18 read as follows:

19 (1) A diversion agreement shall be a contract between a juvenile
20 accused of an offense and a diversionary unit whereby the juvenile
21 agrees to fulfill certain conditions in lieu of prosecution. The
22 juvenile's custodial parent or parents or guardian shall be parties to
23 the diversion agreement. Such agreements may be entered into only
24 after the prosecutor, or (~~probation~~) community supervision counselor
25 pursuant to this chapter, has determined that probable cause exists to
26 believe that a crime has been committed and that the juvenile committed
27 it. Such agreements shall be entered into as expeditiously as
28 possible.

29 (2) A diversion agreement shall be limited to one or more of the
30 following:

31 (a) Community service not to exceed one hundred fifty hours, not
32 to be performed during school hours if the juvenile is attending
33 school;

34 (b) Restitution limited to the amount of actual loss incurred by
35 the victim, and to an amount the juvenile has the means or potential
36 means to pay;

37 (c) Attendance at up to ten hours of counseling and/or up to
38 twenty hours of educational or informational sessions at a community

1 agency(~~(: PROVIDED, That)~~). The educational or informational sessions
2 may include sessions relating to respect for self, others, and
3 authority; victim awareness; accountability; self-worth;
4 responsibility; work ethics; good citizenship; and life skills. For
5 purposes of this section, "community agency" may also mean a community-
6 based nonprofit organization, if approved by the diversion unit. The
7 state shall not be liable for costs resulting from the diversionary
8 unit exercising the option to permit diversion agreements to mandate
9 attendance at up to ten hours of counseling and/or up to twenty hours
10 of educational or informational sessions; ((and))

11 (d) A fine, not to exceed one hundred dollars. In determining the
12 amount of the fine, the diversion unit shall consider only the
13 juvenile's financial resources and whether the juvenile has the means
14 to pay the fine. The diversion unit shall not consider the financial
15 resources of the juvenile's parents, guardian, or custodian in
16 determining the fine to be imposed; and

17 (e) Requirements to remain during specified hours at home, school,
18 or work, and restrictions on leaving or entering specified geographical
19 areas.

20 (3) In assessing periods of community service to be performed and
21 restitution to be paid by a juvenile who has entered into a diversion
22 agreement, the court officer to whom this task is assigned shall
23 consult with the juvenile's custodial parent or parents or guardian and
24 victims who have contacted the diversionary unit and, to the extent
25 possible, involve members of the community. Such members of the
26 community shall meet with the juvenile and advise the court officer as
27 to the terms of the diversion agreement and shall supervise the
28 juvenile in carrying out its terms.

29 (4) A diversion agreement may not exceed a period of six months
30 and may include a period extending beyond the eighteenth birthday of
31 the diverttee. Any restitution assessed during its term may not exceed
32 an amount which the juvenile could be reasonably expected to pay during
33 this period. If additional time is necessary for the juvenile to
34 complete restitution to the victim, the time period limitations of this
35 subsection may be extended by an additional six months.

36 (5) The juvenile shall retain the right to be referred to the
37 court at any time prior to the signing of the diversion agreement.

38 (6) Diverttees and potential diverttees shall be afforded due
39 process in all contacts with a diversionary unit regardless of whether

1 the juveniles are accepted for diversion or whether the diversion
2 program is successfully completed. Such due process shall include, but
3 not be limited to, the following:

4 (a) A written diversion agreement shall be executed stating all
5 conditions in clearly understandable language;

6 (b) Violation of the terms of the agreement shall be the only
7 grounds for termination;

8 (c) No divertee may be terminated from a diversion program without
9 being given a court hearing, which hearing shall be preceded by:

10 (i) Written notice of alleged violations of the conditions of the
11 diversion program; and

12 (ii) Disclosure of all evidence to be offered against the
13 divertee;

14 (d) The hearing shall be conducted by the juvenile court and shall
15 include:

16 (i) Opportunity to be heard in person and to present evidence;

17 (ii) The right to confront and cross-examine all adverse
18 witnesses;

19 (iii) A written statement by the court as to the evidence relied
20 on and the reasons for termination, should that be the decision; and

21 (iv) Demonstration by evidence that the divertee has substantially
22 violated the terms of his or her diversion agreement.

23 (e) The prosecutor may file an information on the offense for
24 which the divertee was diverted:

25 (i) In juvenile court if the divertee is under eighteen years of
26 age; or

27 (ii) In superior court or the appropriate court of limited
28 jurisdiction if the divertee is eighteen years of age or older.

29 (7) The diversion unit shall, subject to available funds, be
30 responsible for providing interpreters when juveniles need interpreters
31 to effectively communicate during diversion unit hearings or
32 negotiations.

33 (8) The diversion unit shall be responsible for advising a
34 divertee of his or her rights as provided in this chapter.

35 (9) The diversion unit may refer a juvenile to community-based
36 counseling or treatment programs.

37 (10) The right to counsel shall inure prior to the initial
38 interview for purposes of advising the juvenile as to whether he or she
39 desires to participate in the diversion process or to appear in the

1 juvenile court. The juvenile may be represented by counsel at any
2 critical stage of the diversion process, including intake interviews
3 and termination hearings. The juvenile shall be fully advised at the
4 intake of his or her right to an attorney and of the relevant services
5 an attorney can provide. For the purpose of this section, intake
6 interviews mean all interviews regarding the diversion agreement
7 process.

8 The juvenile shall be advised that a diversion agreement shall
9 constitute a part of the juvenile's criminal history as defined by RCW
10 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment
11 of such advisement shall be obtained from the juvenile, and the
12 document shall be maintained by the diversionary unit together with the
13 diversion agreement, and a copy of both documents shall be delivered to
14 the prosecutor if requested by the prosecutor. The supreme court shall
15 promulgate rules setting forth the content of such advisement in simple
16 language.

17 (11) When a juvenile enters into a diversion agreement, the
18 juvenile court may receive only the following information for
19 dispositional purposes:

- 20 (a) The fact that a charge or charges were made;
- 21 (b) The fact that a diversion agreement was entered into;
- 22 (c) The juvenile's obligations under such agreement;
- 23 (d) Whether the alleged offender performed his or her obligations
24 under such agreement; and
- 25 (e) The facts of the alleged offense.

26 (12) A diversionary unit may refuse to enter into a diversion
27 agreement with a juvenile. When a diversionary unit refuses to enter
28 a diversion agreement with a juvenile, it shall immediately refer such
29 juvenile to the court for action and shall forward to the court the
30 criminal complaint and a detailed statement of its reasons for refusing
31 to enter into a diversion agreement. The diversionary unit shall also
32 immediately refer the case to the prosecuting attorney for action if
33 such juvenile violates the terms of the diversion agreement.

34 (13) A diversionary unit may, in instances where it determines
35 that the act or omission of an act for which a juvenile has been
36 referred to it involved no victim, or where it determines that the
37 juvenile referred to it has no prior criminal history and is alleged to
38 have committed an illegal act involving no threat of or instance of
39 actual physical harm and involving not more than fifty dollars in

1 property loss or damage and that there is no loss outstanding to the
2 person or firm suffering such damage or loss, counsel and release or
3 release such a juvenile without entering into a diversion agreement.
4 A diversion unit's authority to counsel and release a juvenile under
5 this subsection shall include the authority to refer the juvenile to
6 community-based counseling or treatment programs. Any juvenile
7 released under this subsection shall be advised that the act or
8 omission of any act for which he or she had been referred shall
9 constitute a part of the juvenile's criminal history as defined by RCW
10 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment
11 of such advisement shall be obtained from the juvenile, and the
12 document shall be maintained by the unit, and a copy of the document
13 shall be delivered to the prosecutor if requested by the prosecutor.
14 The supreme court shall promulgate rules setting forth the content of
15 such advisement in simple language. A juvenile determined to be
16 eligible by a diversionary unit for release as provided in this
17 subsection shall retain the same right to counsel and right to have his
18 or her case referred to the court for formal action as any other
19 juvenile referred to the unit.

20 (14) A diversion unit may supervise the fulfillment of a diversion
21 agreement entered into before the juvenile's eighteenth birthday and
22 which includes a period extending beyond the diverttee's eighteenth
23 birthday.

24 (15) If a fine required by a diversion agreement cannot reasonably
25 be paid due to a change of circumstance, the diversion agreement may be
26 modified at the request of the diverttee and with the concurrence of the
27 diversion unit to convert an unpaid fine into community service. The
28 modification of the diversion agreement shall be in writing and signed
29 by the diverttee and the diversion unit. The number of hours of
30 community service in lieu of a monetary penalty shall be converted at
31 the rate of the prevailing state minimum wage per hour.

32 (16) Fines imposed under this section shall be collected and paid
33 into the county general fund in accordance with procedures established
34 by the juvenile court administrator under RCW 13.04.040 and may be used
35 only for juvenile services. In the expenditure of funds for juvenile
36 services, there shall be a maintenance of effort whereby counties
37 exhaust existing resources before using amounts collected under this
38 section.

1 NEW SECTION. **Sec. 714.** A new section is added to chapter 13.40

2 RCW to read as follows:

3 (1) At any time before adjudication, the juvenile court has the
4 power, after consulting the juvenile's custodial parent or parents or
5 guardian and with the consent of the juvenile, to continue the case for
6 a period not to exceed one year from the date of entry of the plea or
7 finding of guilt. The court may continue the case for an additional
8 one-year period for good cause.

9 (2) Any juvenile granted a deferral of adjudication under this
10 section shall be placed under community supervision. The court may
11 impose any conditions of supervision that it deems appropriate.
12 Payment of restitution, as provided in RCW 13.40.190 shall also be a
13 condition of community supervision under this section.

14 (3) Upon full compliance with such conditions of supervision, the
15 court shall dismiss the case with prejudice.

16 (4) If the juvenile fails to comply with the terms of supervision,
17 the court shall enter an order of adjudication and proceed to
18 disposition. The juvenile's lack of compliance shall be determined by
19 the judge upon written motion by the prosecutor or the juvenile's
20 juvenile court community supervision counselor. The state shall bear
21 the burden to prove by a preponderance of the evidence that the
22 juvenile has failed to comply with the terms of community supervision.

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

25 (a) To a speedy trial and disposition;

26 (b) To call and confront witnesses; and

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

29 (6)(a) In addition to imposing conditions of community
30 supervision, the court may order that the juvenile be placed in a
31 placement out of the home if the court finds that the child is in need
32 of supervision and that placement of the child out of the home is in
33 the child's best interests. The court shall consider the following
34 factors, among others, when determining whether to place the child out
35 of the home:

36 (i) The age of the youth;

37 (ii) Whether the child has a history of running away from home,
38 school absences, drug or alcohol abuse, assaultive behavior, curfew
39 violations, or is beyond the control of his or her parent to the extent

1 that the child's behavior substantially endangers the health, safety,
2 or welfare of the child or any other person;

3 (iii) The community supervision officer's report concerning the
4 family environment;

5 (iv) Assessment of the child's chances of successfully complying
6 with the terms of community supervision if the child remains in the
7 home; and

8 (v) The wishes of the parents, the parent's willingness and
9 ability to assist the child in complying with the terms of community
10 supervision, and the parent's willingness and ability to voluntarily
11 attend counseling or parenting seminars, or to seek treatment if the
12 parent, in the court's determination, has drug or alcohol problems,
13 mental health problems, or anger management problems.

14 (b) If the court finds that placement out of the home is necessary
15 and is in the best interests of the juvenile and community and that
16 reasonable efforts have been made to prevent out-of-home placement, the
17 court shall order an out-of-home placement, subject to available funds
18 and beds. The order shall be directed to the receiving agency or
19 person. In determining the location of the out-of-home placement the
20 court shall consider the needs of the juvenile, the juvenile's family,
21 and the community. The court shall first consider placement with a
22 relative and shall accord great weight to the juvenile's community
23 supervision officer's placement recommendation.

24 (c) A placement out of the home shall not exceed one year. The
25 court shall review the placement every ninety days. The juvenile's
26 community supervision officer shall request from the receiving agency
27 or person information on the placement, and the community supervision
28 officer shall include this information and other relevant information
29 in a report to be presented to the court at the placement review. The
30 review shall be conducted administratively.

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

33 (e) If the receiving agency or person determines that the juvenile
34 is inappropriately placed, the agency or person may file with the court
35 a petition for reconsideration.

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

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

4 NEW SECTION. **Sec. 715.** State funds appropriated for the purposes
 5 of section 714 of this act in the 1994 supplemental operating budget do
 6 not constitute an on-going funding commitment of the state.

7 **Sec. 716.** RCW 13.40.0357 and 1989 c 407 s 7 are each amended to
 8 read as follows:

9 SCHEDULE A

10 DESCRIPTION AND OFFENSE CATEGORY

11			JUVENILE
12	JUVENILE		DISPOSITION
13	DISPOSITION		CATEGORY FOR ATTEMPT,
14	OFFENSE		BAILJUMP, CONSPIRACY,
15	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
16		
17		Arson and Malicious Mischief	
18	A	Arson 1 (9A.48.020)	B+
19	B	Arson 2 (9A.48.030)	C
20	C	Reckless Burning 1 (9A.48.040)	D
21	D	Reckless Burning 2 (9A.48.050)	E
22	B	Malicious Mischief 1 (9A.48.070)	C
23	C	Malicious Mischief 2 (9A.48.080)	D
24	D	Malicious Mischief 3 (<\$50 is	
25		E class) (9A.48.090)	E
26	E	Tampering with Fire Alarm	
27		Apparatus (9.40.100)	E
28	A	Possession of Incendiary Device	
29		(9.40.120)	B+
30		Assault and Other Crimes	
31		Involving Physical Harm	
32	A	Assault 1 (9A.36.011)	B+
33	B+	Assault 2 (9A.36.021)	C+
34	C+	Assault 3 (9A.36.031)	D+

1	D+	Assault 4 (9A.36.041)	E
2	D+	Reckless Endangerment	
3		(9A.36.050)	E
4	C+	Promoting Suicide Attempt	
5		(9A.36.060)	D+
6	D+	Coercion (9A.36.070)	E
7	C+	Custodial Assault (9A.36.100)	D+
8		Burglary and Trespass	
9	B+	Burglary 1 (9A.52.020)	C+
10	B	Burglary 2 (9A.52.030)	C
11	D	Burglary Tools (Possession of)	
12		(9A.52.060)	E
13	D	Criminal Trespass 1 (9A.52.070)	E
14	E	Criminal Trespass 2 (9A.52.080)	E
15	D	Vehicle Prowling (9A.52.100)	E
16		Drugs	
17	E	Possession/Consumption of Alcohol	
18		(66.44.270)	E
19	C	Illegally Obtaining Legend Drug	
20		(69.41.020)	D
21	C+	Sale, Delivery, Possession of Legend	
22		Drug with Intent to Sell	
23		(69.41.030)	D+
24	E	Possession of Legend Drug	
25		(69.41.030)	E
26	B+	Violation of Uniform Controlled	
27		Substances Act - Narcotic Sale	
28		(69.50.401(a)(1)(i))	B+
29	C	Violation of Uniform Controlled	
30		Substances Act - Nonnarcotic Sale	
31		(69.50.401(a)(1)(ii))	C
32	E	Possession of Marihuana <40 grams	
33		(69.50.401(e))	E
34	C	Fraudulently Obtaining Controlled	
35		Substance (69.50.403)	C
36	C+	Sale of Controlled Substance	
37		for Profit (69.50.410)	C+

1	E	((Glue Sniffing (9.47A.050)))	E
2		<u>Unlawful Inhalation (9.47A.020)</u>	
3	B	Violation of Uniform Controlled	
4		Substances Act - Narcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1)(i))	B
7	C	Violation of Uniform Controlled	
8		Substances Act - Nonnarcotic	
9		Counterfeit Substances	
10		(69.50.401(b)(1) (ii), (iii), (iv))	C
11	C	Violation of Uniform Controlled	
12		Substances Act - Possession of a	
13		Controlled Substance	
14		(69.50.401(d))	C
15	C	Violation of Uniform Controlled	
16		Substances Act - Possession of a	
17		Controlled Substance	
18		(69.50.401(c))	C
19		Firearms and Weapons	
20	((C+)	Committing Crime when Armed	
21		(9.41.025)	D+
22	E	Carrying Loaded Pistol Without	
23		Permit (9.41.050)	E
24	E)) C	((Use)) <u>Possession of Firearms</u>	
25		by Minor ((<14)) (<18)	
26		((9.41.240)) <u>(9.41.040(1)(e))</u>	((E)) C
27	D+	Possession of Dangerous Weapon	
28		(9.41.250)	E
29	D	Intimidating Another Person by use	
30		of Weapon (9.41.270)	E
31	C	<u>Delivery of Firearm by Minor</u>	
32		<u>(9.41.080)</u>	C
33		Homicide	
34	A+	Murder 1 (9A.32.030)	A
35	A+	Murder 2 (9A.32.050)	B+
36	B+	Manslaughter 1 (9A.32.060)	C+
37	C+	Manslaughter 2 (9A.32.070)	D+

1	B+	Vehicular Homicide (46.61.520)	C+
2		Kidnapping	
3	A	Kidnap 1 (9A.40.020)	B+
4	B+	Kidnap 2 (9A.40.030)	C+
5	C+	Unlawful Imprisonment	
6		(9A.40.040)	D+
7	((D	Custodial Interference	
8		(9A.40.050)	E))
9		Obstructing Governmental Operation	
10	E	Obstructing a Public Servant	
11		(9A.76.020)	E
12	E	Resisting Arrest (9A.76.040)	E
13	B	Introducing Contraband 1	
14		(9A.76.140)	C
15	C	Introducing Contraband 2	
16		(9A.76.150)	D
17	E	Introducing Contraband 3	
18		(9A.76.160)	E
19	B+	Intimidating a Public Servant	
20		(9A.76.180)	C+
21	B+	Intimidating a Witness	
22		(9A.72.110)	C+
23	((E	Criminal Contempt	
24		(9.23.010)	E))
25		Public Disturbance	
26	C+	Riot with Weapon (9A.84.010)	D+
27	D+	Riot Without Weapon	
28		(9A.84.010)	E
29	E	Failure to Disperse (9A.84.020)	E
30	E	Disorderly Conduct (9A.84.030)	E
31		Sex Crimes	
32	A	Rape 1 (9A.44.040)	B+
33	A-	Rape 2 (9A.44.050)	B+
34	C+	Rape 3 (9A.44.060)	D+
35	A-	Rape of a Child 1 (9A.44.073)	B+

1	B	Rape of a Child 2 (9A.44.076)	C+
2	B	Incest 1 (9A.64.020(1))	C
3	C	Incest 2 (9A.64.020(2))	D
4	D+	((Public Indecency)) <u>Indecent Exposure</u>	
5		(Victim <14) (9A.88.010)	E
6	E	((Public Indecency)) <u>Indecent Exposure</u>	
7		(Victim 14 or over) (9A.88.010)	E
8	B+	Promoting Prostitution 1	
9		(9A.88.070)	C+
10	C+	Promoting Prostitution 2	
11		(9A.88.080)	D+
12	E	O & A (Prostitution) (9A.88.030)	E
13	B+	Indecent Liberties (9A.44.100)	C+
14	B+	Child Molestation 1 (9A.44.083)	C+
15	C+	Child Molestation 2 (9A.44.086)	C
16		Theft, Robbery, Extortion, and Forgery	
17	B	Theft 1 (9A.56.030)	C
18	C	Theft 2 (9A.56.040)	D
19	D	Theft 3 (9A.56.050)	E
20	B	Theft of Livestock (9A.56.080)	C
21	C	Forgery (((9A.56.020))) <u>(9A.60.020)</u>	D
22	A	Robbery 1 (9A.56.200)	B+
23	B+	Robbery 2 (9A.56.210)	C+
24	B+	Extortion 1 (9A.56.120)	C+
25	C+	Extortion 2 (9A.56.130)	D+
26	B	Possession of Stolen Property 1	
27		(9A.56.150)	C
28	C	Possession of Stolen Property 2	
29		(9A.56.160)	D
30	D	Possession of Stolen Property 3	
31		(9A.56.170)	E
32	C	Taking Motor Vehicle Without	
33		Owner's Permission (9A.56.070)	D
34		Motor Vehicle Related Crimes	
35	E	Driving Without a License	
36		(46.20.021)	E

1	C	Hit and Run - Injury	
2		(46.52.020(4))	D
3	D	Hit and Run-Attended	
4		(46.52.020(5))	E
5	E	Hit and Run-Unattended	
6		(46.52.010)	E
7	C	Vehicular Assault (46.61.522)	D
8	C	Attempting to Elude Pursuing	
9		Police Vehicle (46.61.024)	D
10	E	Reckless Driving (46.61.500)	E
11	D	Driving While Under the Influence	
12		(46.61.515)	E
13	((B+	Negligent Homicide by Motor	
14		Vehicle (46.61.520)	C+))
15	D	Vehicle Prowling (9A.52.100)	E
16	C	Taking Motor Vehicle Without	
17		Owner's Permission (9A.56.070)	D
18		Other	
19	B	Bomb Threat (9.61.160)	C
20	C	Escape 1 (9A.76.110)	C
21	C	Escape 2 (9A.76.120)	C
22	D	Escape 3 (9A.76.130)	E
23	C	Failure to Appear in Court	
24		(10.19.130)	D
25	((E	Tampering with Fire Alarm	
26		Apparatus (9.40.100)	E))
27	E	Obscene, Harassing, Etc.,	
28		Phone Calls (9.61.230)	E
29	A	Other Offense Equivalent to an	
30		Adult Class A Felony	B+
31	B	Other Offense Equivalent to an	
32		Adult Class B Felony	C
33	C	Other Offense Equivalent to an	
34		Adult Class C Felony	D
35	D	Other Offense Equivalent to an	
36		Adult Gross Misdemeanor	E
37	E	Other Offense Equivalent to an	
38		Adult Misdemeanor	E

1 V Violation of Order of Restitution,
 2 Community Supervision, or
 3 Confinement §(13.40.200) V

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

6 1st escape or attempted escape during 12-month period - 4 weeks
 7 confinement

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

10 3rd and subsequent escape or attempted escape during 12-month
 11 period - 12 weeks confinement

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

14 SCHEDULE B
 15 PRIOR OFFENSE INCREASE FACTOR

16 For use with all CURRENT OFFENSES occurring on or after July 1,
 17 1989.

18 TIME SPAN

19 OFFENSE	0-12	13-24	25 Months
20 CATEGORY	Months	Months	or More
21			
22 A+	.9	.9	.9
23 A	.9	.8	.6
24 A-	.9	.8	.5
25 B+	.9	.7	.4
26 B	.9	.6	.3
27 C+	.6	.3	.2
28 C	.5	.2	.2
29 D+	.3	.2	.1
30 D	.2	.1	.1
31 E	.1	.1	.1

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

5 SCHEDULE C
 6 CURRENT OFFENSE POINTS

7 For use with all CURRENT OFFENSES occurring on or after July 1,
 8 1989.

9 AGE

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

23 JUVENILE SENTENCING STANDARDS
 24 SCHEDULE D-1

25 This schedule may only be used for ((minor/first)) minor offenders.
 26 After the determination is made that a youth is a ((minor/first)) minor
 27 offender, the court has the discretion to select sentencing option A,
 28 B, or C.

29 ((MINOR/FIRST)) MINOR OFFENDER

30 OPTION A

1

STANDARD RANGE

2

Community

3

Community

Service

4 Points

Supervision

Hours

Fine

5 1-9

0-3 months

and/or 0-8

and/or 0-\$10

6 10-19

0-3 months

and/or 0-8

and/or 0-\$10

7 20-29

0-3 months

and/or 0-16

and/or 0-\$10

8 30-39

0-3 months

and/or 8-24

and/or 0-\$25

9 40-49

3-6 months

and/or 16-32

and/or 0-\$25

10 50-59

3-6 months

and/or 24-40

and/or 0-\$25

11 60-69

6-9 months

and/or 32-48

and/or 0-\$50

12 70-79

6-9 months

and/or 40-56

and/or 0-\$50

13 80-89

9-12 months

and/or 48-64

and/or 10-\$100

14 90-109

9-12 months

and/or 56-72

and/or 10-\$100

15

OR

16

OPTION B

17

STATUTORY OPTION

18 0-12 Months Community Supervision

19 0-150 Hours Community Service

20 0-100 Fine

21 A term of community supervision with a maximum of 150 hours, \$100.00
22 fine, and 12 months supervision.

23

OR

24

OPTION C

25

MANIFEST INJUSTICE

26 When a term of community supervision would effectuate a manifest
27 injustice, another disposition may be imposed. When a judge imposes a
28 sentence of confinement exceeding 30 days, the court shall sentence the
29 juvenile to a maximum term and the provisions of RCW ((13.40.030(5), as
30 now or hereafter amended,)) 13.40.030(2) shall be used to determine the
31 range.

JUVENILE SENTENCING STANDARDS

SCHEDULE D-2

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

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Points	Community Supervision	Community Service Hours	Fine	Confinement Days	Confinement Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0	
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4	
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4	
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10	
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10	
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20	
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20	
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30	
110-129				8-12	
130-149				13-16	
150-199				21-28	
200-249				30-40	
250-299				52-65	
300-374				80-100	
375+				103-129	

Middle offenders with more than 110 points do not have to be committed. They may be assigned community supervision under option B. All A+ offenses 180-224 weeks

OR

1 OPTION B
2 STATUTORY OPTION

- 3 0-12 Months Community Supervision
- 4 0-150 Hours Community Service
- 5 0-100 Fine

6 If the middle offender has less than 110 points, the court may impose
7 a determinate disposition of community supervision and/or up to 30 days
8 confinement; in which case, if confinement has been imposed, the court
9 shall state either aggravating or mitigating factors as set forth in
10 RCW 13.40.150(~~(, as now or hereafter amended)~~)). If the middle offender
11 has more than 110 points, the court may impose a disposition under
12 option A and may suspend the disposition on the condition that the
13 offender serve up to thirty days of confinement and follow all
14 conditions of community supervision. If the offender fails to comply
15 with the terms of community supervision, the court may impose sanctions
16 pursuant to RCW 13.40.200 or may revoke the suspended disposition and
17 order execution of the disposition. If the court imposes confinement
18 under this option B, the court shall state either aggravating or
19 mitigating factors set forth in RCW 13.40.150.

20 OR

21 OPTION C
22 MANIFEST INJUSTICE

24 If the court determines that a disposition under A or B would
25 effectuate a manifest injustice, the court shall sentence the juvenile
26 to a maximum term and the provisions of RCW (~~(13.40.030(5), as now or~~
27 ~~hereafter amended,)) 13.40.030(2) shall be used to determine the range.~~

28 JUVENILE SENTENCING STANDARDS
29 SCHEDULE D-3

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

SERIOUS OFFENDER

OPTION A

STANDARD RANGE

4	Points	Institution Time
5	0-129	8-12 weeks
6	130-149	13-16 weeks
7	150-199	21-28 weeks
8	200-249	30-40 weeks
9	250-299	52-65 weeks
10	300-374	80-100 weeks
11	375+	103-129 weeks
12	All A+	
13	Offenses	180-224 weeks

OR

OPTION B

MANIFEST INJUSTICE

18 A disposition outside the standard range shall be determined and shall
 19 be comprised of confinement or community supervision or a combination
 20 thereof. When a judge finds a manifest injustice and imposes a
 21 sentence of confinement exceeding 30 days, the court shall sentence the
 22 juvenile to a maximum term, and the provisions of RCW (~~13.40.030(5)~~,
 23 ~~as now or hereafter amended,~~) 13.40.030(2) shall be used to determine
 24 the range.

25 **Sec. 717.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to
 26 read as follows:

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

32 If the court concludes, and enters reasons for its conclusion,
 33 that disposition within the standard range would effectuate a manifest
 34 injustice the court shall impose a disposition outside the standard

1 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
2 court's finding of manifest injustice shall be supported by clear and
3 convincing evidence.

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

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

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

38 (3) Where a respondent is found to have committed an offense for
39 which the respondent declined to enter into a diversion agreement, the

1 court shall impose a term of community supervision limited to the
2 conditions allowed in a diversion agreement as provided in RCW
3 13.40.080(2) (~~as now or hereafter amended~~)).

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

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

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

17 (c) Only if the court concludes, and enters reasons for its
18 conclusions, that disposition as provided in subsection (4)(a) or (b)
19 of this section would effectuate a manifest injustice, the court shall
20 sentence the juvenile to a maximum term, and the provisions of RCW
21 13.40.030(2)(~~, as now or hereafter amended,~~) shall be used to
22 determine the range. The court's finding of manifest injustice shall
23 be supported by clear and convincing evidence.

24 (d) A disposition pursuant to subsection (4)(c) of this section is
25 appealable under RCW 13.40.230(~~, as now or hereafter amended,~~) by the
26 state or the respondent. A disposition pursuant to subsection (4) (a)
27 or (b) of this section is not appealable under RCW 13.40.230 (~~as now~~
28 ~~or hereafter amended~~)).

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

35 The report of the examination shall include at a minimum the
36 following: The respondent's version of the facts and the official
37 version of the facts, the respondent's offense history, an assessment
38 of problems in addition to alleged deviant behaviors, the respondent's
39 social, educational, and employment situation, and other evaluation

1 measures used. The report shall set forth the sources of the
2 evaluator's information.

3 The examiner shall assess and report regarding the respondent's
4 amenability to treatment and relative risk to the community. A
5 proposed treatment plan shall be provided and shall include, at a
6 minimum:

7 (a)(i) Frequency and type of contact between the offender and
8 therapist;

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

11 (iii) Monitoring plans, including any requirements regarding
12 living conditions, lifestyle requirements, and monitoring by family
13 members, legal guardians, or others;

14 (iv) Anticipated length of treatment; and

15 (v) Recommended crime-related prohibitions.

16 The court on its own motion may order, or on a motion by the state
17 shall order, a second examination regarding the offender's amenability
18 to treatment. The evaluator shall be selected by the party making the
19 motion. The defendant shall pay the cost of any second examination
20 ordered unless the court finds the defendant to be indigent in which
21 case the state shall pay the cost.

22 After receipt of reports of the examination, the court shall then
23 consider whether the offender and the community will benefit from use
24 of this special sex offender disposition alternative and consider the
25 victim's opinion whether the offender should receive a treatment
26 disposition under this section. If the court determines that this
27 special sex offender disposition alternative is appropriate, then the
28 court shall impose a determinate disposition within the standard range
29 for the offense, and the court may suspend the execution of the
30 disposition and place the offender on community supervision for (~~up~~
31 ~~to~~) not less than two years. As a condition of the suspended
32 disposition, the court may impose the conditions of community
33 supervision and other conditions, including up to thirty days of
34 confinement and requirements that the offender do any one or more of
35 the following:

36 (b)(i) Devote time to a specific education, employment, or
37 occupation;

38 (ii) Undergo available outpatient sex offender treatment for up to
39 two years, or inpatient sex offender treatment not to exceed the

1 standard range of confinement for that offense. A community mental
2 health center may not be used for such treatment unless it has an
3 appropriate program designed for sex offender treatment. The
4 respondent shall not change sex offender treatment providers or
5 treatment conditions without first notifying the prosecutor, the
6 ((probation)) community supervision counselor, and the court, and shall
7 not change providers without court approval after a hearing if the
8 prosecutor or ((probation)) community supervision counselor object to
9 the change;

10 (iii) Remain within prescribed geographical boundaries and notify
11 the court or the ((probation)) community supervision counselor prior to
12 any change in the offender's address, educational program, or
13 employment;

14 (iv) Report to the prosecutor and the ((probation)) community
15 supervision counselor prior to any change in a sex offender treatment
16 provider. This change shall have prior approval by the court;

17 (v) Report as directed to the court and a ((probation)) community
18 supervision counselor;

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

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

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

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

32 Except as provided in this subsection (5), after July 1, 1991,
33 examinations and treatment ordered pursuant to this subsection shall
34 only be conducted by sex offender treatment providers certified by the
35 department of health pursuant to chapter 18.155 RCW. A sex offender
36 therapist who examines or treats a juvenile sex offender pursuant to
37 this subsection does not have to be certified by the department of
38 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
39 offender has already moved to another state or plans to move to another

1 state for reasons other than circumventing the certification
2 requirements; (B) no certified providers are available for treatment
3 within a reasonable geographical distance of the offender's home; and
4 (C) the evaluation and treatment plan comply with this subsection (5)
5 and the rules adopted by the department of health.

6 If the offender violates any condition of the disposition or the
7 court finds that the respondent is failing to make satisfactory
8 progress in treatment, the court may revoke the suspension and order
9 execution of the ~~((sentence))~~ disposition or the court may impose a
10 penalty of up to thirty days' confinement for violating conditions of
11 the disposition. The court may order both execution of the disposition
12 and up to thirty days' confinement for the violation of the conditions
13 of the disposition, in which case the term of confinement imposed for
14 violating conditions of the disposition shall run consecutively to the
15 term of confinement imposed under the disposition. The court shall
16 give credit for any confinement time previously served if that
17 confinement was for the offense for which the suspension is being
18 revoked.

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

24 (6) Section 719 of this act shall govern the disposition of any
25 juvenile adjudicated of possessing a firearm in violation of RCW
26 9.41.040(1)(e), delivery of a firearm in violation of RCW 9.41.080,
27 theft of a firearm as defined in section 301 of this act, or any crime
28 in which a special finding is entered that the juvenile was armed with
29 a deadly weapon as provided in section 718 of this act.

30 (7) Whenever a juvenile offender is entitled to credit for time
31 spent in detention prior to a dispositional order, the dispositional
32 order shall specifically state the number of days of credit for time
33 served.

34 ~~((+7))~~ (8) Except as provided for in subsection (5) of this
35 section, section 714 of this act, and RCW 13.40.0357, the court shall
36 not suspend or defer the imposition or the execution of the
37 disposition.

1 (~~(+8)~~) (9) In no case shall the term of confinement imposed by
2 the court at disposition exceed that to which an adult could be
3 subjected for the same offense.

4 (10) If a court does not exercise a disposition option available
5 under this chapter due to a lack of available funds, services, or bed
6 space, the court shall enter a finding in the disposition that an
7 alternative disposition was not ordered due to the lack of available
8 funds, services, or bed space.

9 NEW SECTION. Sec. 718. A new section is added to chapter 13.40
10 RCW to read as follows:

11 A prosecutor may file a special allegation that the offender or an
12 accomplice was armed with a deadly weapon as defined in RCW 9.94A.125
13 when the offender committed the alleged offense. If a special
14 allegation has been filed and the court finds that the offender
15 committed the alleged offense, the court shall also make a finding
16 whether the offender or an accomplice was armed with a deadly weapon
17 when the offender committed the offense.

18 NEW SECTION. Sec. 719. A new section is added to chapter 13.40
19 RCW to read as follows:

20 (1) If a respondent is found to have been in possession of a
21 firearm in violation of RCW 9.41.040(1)(e), the court shall impose a
22 determinate disposition of thirty days of confinement and up to twelve
23 months of community supervision. If the offender's standard range of
24 disposition for the offense as indicated in RCW 13.40.0357 is more than
25 thirty days of confinement, the court shall commit the offender to the
26 department for the standard range disposition. The offender shall not
27 be released until the offender has served a minimum of thirty days in
28 confinement.

29 (2) If a respondent is found to have delivered a firearm in
30 violation of RCW 9.41.080, the court shall commit the offender to the
31 department for a minimum term of one hundred twenty days of
32 confinement. If the offender's standard range of disposition for the
33 offense as indicated in RCW 13.40.0357 is more than one hundred twenty
34 days, the court shall commit the offender to the standard range
35 disposition. The department shall not release the offender until the
36 offender has served a minimum of one hundred twenty days in
37 confinement.

1 (3) If a respondent is found to have committed an offense of theft
2 of a firearm as defined in section 301 of this act, the court shall
3 commit the offender to the department for a minimum of one hundred
4 twenty days confinement. If the offender's standard range of
5 disposition for the offense as indicated in RCW 13.40.0357 is more than
6 one hundred twenty days, the court shall commit the offender to the
7 standard range disposition. The department shall not release the
8 offender until the offender has served a minimum of one hundred twenty
9 days in confinement.

10 (4) If the court finds that the respondent or an accomplice was
11 armed with a deadly weapon as provided in section 718 of this act, the
12 court shall determine the standard range disposition for the offense
13 pursuant to RCW 13.40.160. One hundred eighty days of confinement
14 shall be added to the entire standard range disposition of confinement
15 if the offender or an accomplice was armed with a deadly weapon when
16 the offender committed: (a) Any violent offense; or (b) escape in the
17 first degree (RCW 9A.76.110); burglary in the second degree (RCW
18 9A.52.030); theft of livestock in the first or second degree (RCW
19 9A.56.080); or any felony drug offense. If the offender or an
20 accomplice was armed with a deadly weapon and the offender is being
21 adjudicated for an anticipatory felony offense under chapter 9A.28 RCW
22 to commit one of the offenses listed in this subsection, one hundred
23 eighty days shall be added to the entire standard range disposition of
24 confinement. The one hundred eighty days shall be imposed regardless
25 of the offense's juvenile disposition offense category as designated in
26 RCW 13.40.0357. The department shall not release the offender until
27 the offender has served a minimum of one hundred eighty days in
28 confinement, unless the juvenile is committed to and successfully
29 completes the juvenile offender basic training camp disposition option.

30 (5) Option B of schedule D-2, RCW 13.40.0357, shall not be
31 available for middle offenders who receive a disposition under this
32 section. When a disposition under this section would effectuate a
33 manifest injustice, the court may impose another disposition. When a
34 judge finds a manifest injustice and imposes a disposition of
35 confinement exceeding thirty days, the court shall commit the juvenile
36 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used
37 to determine the range. When a judge finds a manifest injustice and
38 imposes a disposition of confinement less than thirty days, the

1 disposition shall be comprised of confinement or community supervision
2 or both.

3 (6) Any term of confinement ordered pursuant to this section shall
4 run consecutively to any term of confinement imposed in the same
5 disposition for other offenses.

6 **Sec. 720.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
7 read as follows:

8 (1) Except as provided in subsection (2) of this section, where a
9 disposition is imposed on a youth for two or more offenses, the terms
10 shall run consecutively~~((, subject to the following limitations:~~

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

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

18 ~~(3) The aggregate of all consecutive terms of community~~
19 ~~supervision shall not exceed two years in length, or require payment of~~
20 ~~more than two hundred dollars in fines or the performance of more than~~
21 ~~two hundred hours of community service)) or concurrently in the court's~~
22 discretion.

23 (2) Any term of confinement ordered pursuant to section 719 of
24 this act shall run consecutively to any term of confinement imposed in
25 the same disposition for other offenses.

26 **Sec. 721.** RCW 13.40.190 and 1987 c 281 s 5 are each amended to
27 read as follows:

28 (1) In its dispositional order, the court shall require the
29 respondent and may require his or her parents, guardians, or custodians
30 to make restitution to any persons who have suffered loss or damage as
31 a result of the offense committed by the respondent. In addition,
32 restitution may be ordered for loss or damage if the offender pleads
33 guilty to a lesser offense or fewer offenses and agrees with the
34 prosecutor's recommendation that the offender be required to pay
35 restitution to a victim of an offense or offenses which, pursuant to a
36 plea agreement, are not prosecuted. The payment of restitution shall
37 be in addition to any punishment which is imposed pursuant to the other

1 provisions of this chapter. The court may determine the amount, terms,
2 and conditions of the restitution. Restitution may include the costs
3 of counseling reasonably related to the offense. If the respondent
4 participated in the crime with another person or other persons, all
5 such participants shall be jointly and severally responsible for the
6 payment of restitution. The court may not require the respondent or
7 parent, guardian, or custodian to pay full or partial restitution if
8 the respondent or parent, guardian, or custodian reasonably satisfies
9 the court that he or she does not have the means to make full or
10 partial restitution and could not reasonably acquire the means to pay
11 such restitution. In cases where an offender has been committed to the
12 department for a period of confinement exceeding fifteen weeks,
13 restitution may be waived.

14 (2) If an order includes restitution as one of the monetary
15 assessments, the county clerk shall make disbursements to victims named
16 in the order. The restitution to victims named in the order shall be
17 paid prior to any payment for other penalties or monetary assessments.

18 (3) A respondent under obligation to pay restitution may petition
19 the court for modification of the restitution order.

20 **Sec. 722.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to
21 read as follows:

22 (1) When a respondent fails to comply with an order of
23 restitution, community supervision, penalty assessments, or confinement
24 of less than thirty days, the court upon motion of the prosecutor or
25 its own motion, may modify the order after a hearing on the violation.

26 (2) The hearing shall afford the respondent the same due process
27 of law as would be afforded an adult probationer. The court may issue
28 a summons or a warrant to compel the respondent's appearance. The
29 state shall have the burden of proving by a preponderance of the
30 evidence the fact of the violation. The respondent shall have the
31 burden of showing that the violation was not a wilful refusal to comply
32 with the terms of the order. If a respondent has failed to pay a fine,
33 penalty assessments, or restitution or to perform community service
34 hours, as required by the court, it shall be the respondent's burden to
35 show that he or she did not have the means and could not reasonably
36 have acquired the means to pay the fine, penalty assessments, or
37 restitution or perform community service.

1 (3)(a) If the court finds that a respondent has wilfully violated
2 the terms of an order pursuant to subsections (1) and (2) of this
3 section, it may impose a penalty of up to thirty days' confinement or
4 other conditions of community supervision the court considers
5 appropriate. If the court finds that the juvenile has violated the
6 terms of a community supervision order by committing a new offense, the
7 court shall impose thirty days' confinement as a penalty for the
8 violation. This term of confinement shall be in addition to any term
9 of confinement imposed as a disposition for the new offense. Penalties
10 for multiple violations occurring prior to the hearing shall not be
11 aggregated to exceed thirty days' confinement. Regardless of the
12 number of times a respondent is brought to court for violations of the
13 terms of a single disposition order, the combined total number of days
14 spent by the respondent in detention shall never exceed the maximum
15 term to which an adult could be sentenced for the underlying offense.

16 (b) If the violation of the terms of the order under (a) of this
17 subsection is failure to pay fines, penalty assessments, complete
18 community service, or make restitution, the term of confinement imposed
19 under (a) of this subsection shall be assessed at a rate of one day of
20 confinement for each twenty-five dollars or eight hours owed.

21 (4) If a respondent has been ordered to pay a fine or monetary
22 penalty and due to a change of circumstance cannot reasonably comply
23 with the order, the court, upon motion of the respondent, may order
24 that the unpaid fine or monetary penalty be converted to community
25 service. The number of hours of community service in lieu of a
26 monetary penalty or fine shall be converted at the rate of the
27 prevailing state minimum wage per hour. The monetary penalties or
28 fines collected shall be deposited in the county general fund. A
29 failure to comply with an order under this subsection shall be deemed
30 a failure to comply with an order of community supervision and may be
31 proceeded against as provided in this section.

32 **Sec. 723.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to
33 read as follows:

34 (1) The secretary shall, except in the case of a juvenile
35 committed by a court to a term of confinement in a state institution
36 outside the appropriate standard range for the offense(s) for which the
37 juvenile was found to be guilty established pursuant to RCW 13.40.030,
38 (~~as now or hereafter amended,~~) set a release or discharge date for

1 each juvenile committed to its custody (~~(which)~~). The release or
2 discharge date shall be within the prescribed range to which a juvenile
3 has been committed except as provided in section 727 of this act
4 concerning offenders the department determines are eligible for the
5 juvenile offender basic training camp program. Such dates shall be
6 determined prior to the expiration of sixty percent of a juvenile's
7 minimum term of confinement included within the prescribed range to
8 which the juvenile has been committed. The secretary shall release any
9 juvenile committed to the custody of the department within four
10 calendar days prior to the juvenile's release date or on the release
11 date set under this chapter(~~(:—PROVIDED, That)~~). Days spent in the
12 custody of the department shall be tolled by any period of time during
13 which a juvenile has absented himself or herself from the department's
14 supervision without the prior approval of the secretary or the
15 secretary's designee.

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

38 (3) Following the juvenile's release pursuant to subsection (1) of
39 this section, the secretary may require the juvenile to comply with a

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

17 (4) The department may also modify parole for violation thereof.
18 If, after affording a juvenile all of the due process rights to which
19 he or she would be entitled if the juvenile were an adult, the
20 secretary finds that a juvenile has violated a condition of his or her
21 parole, the secretary shall order one of the following which is
22 reasonably likely to effectuate the purpose of the parole and to
23 protect the public: (a) Continued supervision under the same
24 conditions previously imposed; (b) intensified supervision with
25 increased reporting requirements; (c) additional conditions of
26 supervision authorized by this chapter; (d) except as provided in (e)
27 of this subsection, imposition of a period of confinement not to exceed
28 thirty days in a facility operated by or pursuant to a contract with
29 the state of Washington or any city or county for a portion of each day
30 or for a certain number of days each week with the balance of the days
31 or weeks spent under supervision; and (e) the secretary may order any
32 of the conditions or may return the offender to confinement in an
33 institution for the remainder of the sentence range if the offense for
34 which the offender was sentenced is rape in the first or second degree,
35 rape of a child in the first or second degree, child molestation in the
36 first degree, indecent liberties with forcible compulsion, or a sex
37 offense that is also a serious violent offense as defined by RCW
38 9.94A.030.

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

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

8 **Sec. 724.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
9 read as follows:

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

13 An appeal under this section shall be heard solely upon the record
14 that was before the disposition court. No written briefs may be
15 required, and the appeal shall be heard within thirty days following
16 the date of sentencing and a decision rendered within fifteen days
17 following the argument. The supreme court shall promulgate any
18 necessary rules to effectuate the purposes of this section.

19 (2) To uphold a disposition outside the standard range, or which
20 imposes confinement for a minor (~~(or first)~~) offender, the court of
21 appeals must find (a) that the reasons supplied by the disposition
22 judge are supported by the record which was before the judge and that
23 those reasons clearly and convincingly support the conclusion that a
24 disposition within the range, or nonconfinement for a minor (~~(or~~
25 ~~first)~~) offender, would constitute a manifest injustice, and (b) that
26 the sentence imposed was neither clearly excessive nor clearly too
27 lenient.

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

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

35 (5) Pending appeal, a respondent may not be committed or detained
36 for a period of time in excess of the standard range for the offense(s)
37 committed or sixty days, whichever is longer. The disposition court
38 may impose conditions on release pending appeal as provided in RCW

1 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of
2 commitment or detention specified in this subsection, the court may
3 also impose such conditions on the respondent's release pending
4 disposition of the appeal.

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

7 NEW SECTION. **Sec. 725.** The juvenile disposition standards
8 commission shall make a recommendation to the legislature concerning
9 what juvenile disposition offense category should be assigned to the
10 crime of theft of a firearm as created in section 301 of this act and
11 to the crime of reckless endangerment in the first degree, RCW
12 9A.36.045. The recommendation shall be presented to the legislature no
13 later than November 1, 1994.

14 **D. JUVENILE OFFENDER BASIC TRAINING CAMP PROGRAM**

15 NEW SECTION. **Sec. 726.** The legislature finds that the number of
16 juvenile offenders and the severity of their crimes is increasing
17 rapidly state-wide. In addition, many juvenile offenders continue to
18 reoffend after they are released from the juvenile justice system
19 causing disproportionately high and expensive rates of recidivism.

20 The legislature further finds that juvenile criminal behavior is
21 often the result of a lack of self-discipline, the lack of systematic
22 work habits and ethics, the inability to deal with authority figures,
23 and an unstable or unstructured living environment. The legislature
24 further finds that the department of social and health services
25 currently operates an insufficient number of confinement beds to meet
26 the rapidly growing juvenile offender population. Together these
27 factors are combining to produce a serious public safety hazard and the
28 need to develop more effective and stringent juvenile punishment and
29 rehabilitation options.

30 The legislature intends that juvenile offenders who enter the
31 state rehabilitation system have the opportunity and are given the
32 responsibility to become more effective participants in society by
33 enhancing their personal development, work ethics, and life skills.
34 The legislature recognizes that structured incarceration programs for
35 juvenile offenders such as juvenile offender basic training camps, can
36 instill the self-discipline, accountability, self-esteem, and work

1 ethic skills that could discourage many offenders from returning to the
2 criminal justice system. Juvenile offender basic training camp
3 incarceration programs generally emphasize life skills training,
4 prevocational work skills training, anger management, dealing with
5 difficult at-home family problems and/or abuses, discipline, physical
6 training, structured and intensive work activities, and educational
7 classes. The legislature further recognizes that juvenile offenders
8 can benefit from a highly structured basic training camp environment
9 and the public can also benefit through increased public protection and
10 reduced cost due to lowered rates of recidivism.

11 NEW SECTION. **Sec. 727.** A new section is added to chapter 13.40
12 RCW to read as follows:

13 (1) The department of social and health services shall establish
14 and operate a medium security juvenile offender basic training camp
15 program. The department shall site a juvenile offender basic training
16 camp facility in the most cost-effective facility possible and shall
17 review the possibility of using an existing abandoned and/or available
18 state, federally, or military-owned site or facility.

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

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

29 (4) The juvenile offender basic training camp shall be a
30 structured and regimented model lasting one hundred twenty days
31 emphasizing the building up of an offender's self-esteem, confidence,
32 and discipline. The juvenile offender basic training camp program
33 shall provide participants with basic education, prevocational
34 training, work-based learning, live work, work ethic skills, conflict
35 resolution counseling, substance abuse intervention, anger management
36 counseling, and structured intensive physical training. The juvenile
37 offender basic training camp program shall have a curriculum training
38 and work schedule that incorporates a balanced assignment of these or

1 other rehabilitation and training components for no less than sixteen
2 hours per day, six days a week.

3 The department shall adopt rules for the safe and effective
4 operation of the juvenile offender basic training camp program,
5 standards for an offender's successful program completion, and rules
6 for the continued after-care supervision of offenders who have
7 successfully completed the program.

8 (5) Offenders eligible for the juvenile offender basic training
9 camp option shall be those with a disposition of at least fifty-two
10 weeks but not more than seventy-eight weeks. Violent and sex offenders
11 shall not be eligible for the juvenile offender basic training camp
12 program.

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

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

1 (8) No juvenile who suffers from any mental or physical problems
2 that could endanger his or her health or drastically affect his or her
3 performance in the program shall be admitted to or retained in the
4 juvenile offender basic training camp program.

5 (9) The department shall also develop and maintain a database to
6 measure recidivism rates specific to this incarceration program. The
7 data base shall maintain data on all juvenile offenders who complete
8 the juvenile offender basic training camp program for a period of two
9 years after they have completed the program. The data base shall also
10 maintain data on the criminal activity, educational progress, and
11 employment activities of all juvenile offenders who participated in the
12 program. The department shall produce an outcome evaluation report on
13 the progress of the juvenile offender basic training camp program to
14 the appropriate committees of the legislature no later than December
15 12, 1996.

16 NEW SECTION. **Sec. 728.** A new section is added to chapter 13.40
17 RCW to read as follows:

18 The department of social and health services shall encourage local
19 juvenile corrections authorities to develop and site juvenile basic
20 training programs modeled after the juvenile offender basic training
21 program outlined in section 727 of this act. These local juvenile
22 offender basic training programs shall focus on first-time juvenile
23 offenders and juvenile offenders who have displayed a rapid escalation
24 of criminal activity. The department shall also provide, to the extent
25 possible, technical assistance on the design, development, and siting
26 of juvenile offender basic training programs.

27 **E. CURFEWS AND RUNAWAYS**

28 NEW SECTION. **Sec. 729.** The legislature recognizes the growing
29 problem of nighttime violence and other criminal activity committed in
30 public places by and against youth. The legislature finds that it is
31 an appropriate exercise of police powers to restrict the hours during
32 which youth may be in public places without adult supervision or
33 authorization.

34 NEW SECTION. **Sec. 730.** A new section is added to chapter 9.91
35 RCW to read as follows:

1 (1) For purposes of this section:

2 (a) "Reasonable necessity" means, but is not limited to, a need to
3 act in response to a fire, natural disaster, or automobile accident, or
4 the need to obtain medical care for the youth or a member of the
5 youth's family or the need to act in response to any other
6 unanticipated event or circumstance where a reasonable person would
7 find it necessary to be in a public place.

8 (b) "Youth" means a person under the age of seventeen.

9 (c) "Public place" means any sidewalk, street, alley, highway,
10 park, or other public place, or place of business or parking lot that
11 is open to the public whether on public or private property, and
12 includes a vehicle that is in a public place.

13 (2) No youth may be in a public place between the hours of twelve
14 midnight and five a.m. unless:

15 (a) The youth is accompanied by a parent, legal guardian, or a
16 person twenty-one years of age or older who is authorized by the
17 youth's parent or legal guardian to accompany the youth;

18 (b) The youth is traveling by direct route to or from a religious
19 activity, political activity, or an event sponsored by a school;

20 (c) The youth is traveling by direct route to or from his or her
21 place of lawful employment; or

22 (d) The youth's presence in a public place is a reasonable
23 necessity.

24 (3) A law enforcement officer may stop and detain a person that
25 the officer reasonably believes is a youth in violation of subsection
26 (2) of this section in order to obtain the person's name and age and
27 the address of the person's parent or legal guardian.

28 (4) A law enforcement officer who reasonably believes a youth is
29 in violation of subsection (2) of this section may take the youth into
30 custody pursuant to RCW 13.32A.050 and transport the youth to his or
31 her home or to a residential center as provided for in RCW 13.32A.060
32 or to another facility in which the youth will be supervised by an
33 adult for the duration of the curfew period.

34 (5) A youth who has been transported to his or her home or to a
35 residential center for a violation of subsection (2) of this section,
36 and who during the same curfew period of the same day again violates
37 subsection (2) of this section, is guilty of a misdemeanor.

1 **Sec. 731.** RCW 13.32A.050 and 1990 c 276 s 5 are each amended to
2 read as follows:

3 A law enforcement officer shall take a child into custody:

4 (1) If a law enforcement agency has been contacted by the parent
5 of the child that the child is absent from parental custody without
6 consent; or

7 (2) If a law enforcement officer reasonably believes, considering
8 the child's age, the location, and the time of day, that a child is in
9 circumstances which constitute a danger to the child's safety or that
10 a child is violating section 730 of this act or a local curfew
11 ordinance; or

12 (3) If an agency legally charged with the supervision of a child
13 has notified a law enforcement agency that the child has run away from
14 placement; or

15 (4) If a law enforcement agency has been notified by the juvenile
16 court that the court finds probable cause exists to believe that the
17 child has violated a court placement order issued pursuant to chapter
18 13.32A RCW or that the court has issued an order for law enforcement
19 pick-up of the child under this chapter.

20 Law enforcement custody shall not extend beyond the amount of
21 time reasonably necessary to transport the child to a destination
22 authorized by law and to place the child at that destination.

23 An officer who takes a child into custody under this section and
24 places the child in a designated crisis residential center shall inform
25 the department of such placement within twenty-four hours.

26 (5) Nothing in this section affects the authority of any political
27 subdivision to make regulations concerning the conduct of minors in
28 public places by ordinance or other local law.

29 (6) If a law enforcement officer has a reasonable suspicion that
30 a child is being unlawfully harbored under RCW 13.32A.080, the officer
31 shall remove the child from the custody of the person harboring the
32 child and shall transport the child to one of the locations specified
33 in RCW 13.32A.060.

34 NEW SECTION. **Sec. 732.** A new section is added to chapter 35.21
35 RCW to read as follows:

36 (1) A town, city, or county may by resolution exempt itself from
37 the provisions of section 730 of this act.

1 (2) A town, city, or county that does not have sufficient
2 emergency shelter bed space as determined under this subsection must by
3 resolution exempt itself from section 730 of this act. Each town,
4 city, and county shall prepare an inventory of existing emergency
5 shelter bed space available for homeless unaccompanied youths, as well
6 as for youths who may violate a curfew and for whom transportation to
7 their homes or the homes of adult extended family members would be
8 inappropriate under RCW 13.32A.060. The inventory shall include any
9 such space owned or operated by the town, city, or county, and any such
10 space available to the town, city, or county through an interlocal
11 agreement or other contract. The inventory shall be submitted no later
12 than June 1, 1994, to the department of community, trade, and economic
13 development and to the department of social and health services. The
14 departments shall jointly review the inventories and notify each city,
15 town, and county whether it is approved as having sufficient emergency
16 shelter bed space.

17 (3) A city, town, or county that is approved under subsection (2)
18 of this section may adopt a local curfew ordinance so long as it does
19 not deviate from section 730 of this act by:

20 (a) Expanding the hours of curfew either by extending them to
21 before midnight or after 5:00 a.m.;

22 (b) Applying a curfew to persons seventeen years of age or older;

23 (c) Eliminating or diminishing any of the exceptions provided in
24 section 730(2) of this act; or

25 (d) Providing any greater penalty.

26 **Sec. 733.** RCW 13.32A.060 and 1985 c 257 s 8 are each amended to
27 read as follows:

28 (1) An officer taking a child into custody under RCW 13.32A.050
29 (1) or (2) shall inform the child of the reason for such custody and
30 shall either:

31 (a) Transport the child to his or her home. The officer releasing
32 a child into the custody of the parent shall inform the parent of the
33 reason for the taking of the child into custody and shall inform the
34 child and the parent of the nature and location of appropriate services
35 available in their community; or

36 (b) Take the child to the home of an adult extended family member,
37 a designated crisis residential center, or the home of a responsible
38 adult after attempting to notify the parent or legal guardian:

1 (i) If the child (~~(evincees)~~) expresses fear or distress at the
2 prospect of being returned to his or her home(~~(i-or~~
3 ~~(ii) If the officer believes)~~) which leads the officer to believe
4 there is a possibility that the child is experiencing in the home some
5 type of child abuse or neglect, as defined in RCW 26.44.020, as now law
6 or hereafter amended; or
7 ~~((+iii))~~ (ii) If it is not practical to transport the child to
8 his or her home; or
9 ~~((+iv))~~ (iii) If there is no parent available to accept custody
10 of the child.

11 The officer releasing a child into the custody of an extended
12 family member or a responsible adult shall inform the child and the
13 extended family member or responsible adult of the nature and location
14 of appropriate services available in the community.

15 (2) An officer taking a child into custody under RCW 13.32A.050
16 (3) or (4) shall inform the child of the reason for custody, and shall
17 take the child to a designated crisis residential center licensed by
18 the department and established pursuant to chapter 74.13 RCW. However,
19 an officer taking a child into custody under RCW 13.32A.050(4) may
20 place the child in a juvenile detention facility as provided in RCW
21 13.32A.065. The department shall ensure that all the enforcement
22 authorities are informed on a regular basis as to the location of the
23 designated crisis residential center or centers in their judicial
24 district, where children taken into custody under RCW 13.32A.050 may be
25 taken.

26 **Sec. 734.** RCW 13.32A.080 and 1981 c 298 s 6 are each amended to
27 read as follows:

28 (1)(a) A person commits the crime of unlawful harboring of a minor
29 if the person provides shelter to a minor without the consent of a
30 parent of the minor and after the person knows that the minor is away
31 from the home of the parent, without the parent's permission, and if
32 the person intentionally:

33 (i) Fails to release the minor to a law enforcement officer after
34 being requested to do so by the officer; or

35 (ii) Fails to disclose the location of the minor to a law
36 enforcement officer after being requested to do so by the officer, if
37 the person knows the location of the minor and had either taken the

1 minor to that location or had assisted the minor in reaching that
2 location; or

3 (iii) Obstructs a law enforcement officer from taking the minor
4 into custody; or

5 (iv) Assists the minor in avoiding or attempting to avoid the
6 custody of the law enforcement officer.

7 (b) It is a defense to a prosecution under this section that the
8 defendant had custody of the minor pursuant to a court order.

9 (2) Harboring a minor is punishable as a gross misdemeanor ((if
10 the offender has not been previously convicted under this section and
11 a gross misdemeanor if the offender has been previously convicted under
12 this section)).

13 (3) Any person who provides shelter to a child, absent from home,
14 may notify the department's local community service office of the
15 child's presence.

16 (4) An adult responsible for involving a child in the commission
17 of an offense may be prosecuted under existing criminal statutes
18 including, but not limited to:

19 (a) Distribution of a controlled substance to a minor, as defined
20 in RCW 69.50.406;

21 (b) Promoting prostitution as defined in chapter 9A.88 RCW; and

22 (c) Complicity of the adult in the crime of a minor, under RCW
23 9A.08.020.

24 **Sec. 735.** RCW 13.32A.130 and 1992 c 205 s 206 are each amended to
25 read as follows:

26 A child admitted to a crisis residential center under this chapter
27 who is not returned to the home of his or her parent or who is not
28 placed in an alternative residential placement under an agreement
29 between the parent and child, shall, except as provided for by RCW
30 13.32A.140 and 13.32A.160(2), reside in ((such)) the placement under
31 the rules ((and regulations)) established for the center for a period
32 not to exceed five consecutive days from the time of intake, except as
33 otherwise provided by this chapter. Crisis residential center staff
34 shall make a concerted effort to achieve a reconciliation of the
35 family. If a reconciliation and voluntary return of the child has not
36 been achieved within forty-eight hours from the time of intake, and if
37 the person in charge of the center does not consider it likely that
38 reconciliation will be achieved within the five-day period, then the

1 person in charge shall inform the parent and child of (1) the
2 availability of counseling services; (2) the right to file a petition
3 for an alternative residential placement, the right of a parent to file
4 an at-risk youth petition, and the right of the parent and child to
5 obtain assistance in filing the petition; and (3) the right to request
6 a review of any alternative residential placement(~~(:—PROVIDED, That))~~).
7 At no time shall information regarding a parent's or child's rights be
8 withheld if requested(~~(:—PROVIDED FURTHER, That))~~). The department
9 shall develop and distribute to all law enforcement agencies and to
10 each crisis residential center administrator a written statement
11 delineating ((~~such~~)) the services and rights. Every officer taking a
12 child into custody shall provide the child and his or her parent(s) or
13 responsible adult with whom the child is placed with a copy of ((~~such~~))
14 the statement. In addition, the administrator of the facility or his
15 or her designee shall provide every resident and parent with a copy of
16 ((~~such~~)) the statement.

17 NEW SECTION. Sec. 736. A new section is added to chapter 74.13
18 RCW to read as follows:

19 The department of social and health services shall maintain a
20 toll-free hotline to assist parents of runaway children. The hotline
21 shall provide parents with a complete description of their rights when
22 dealing with their runaway child.

23 NEW SECTION. Sec. 737. A new section is added to chapter 43.101
24 RCW to read as follows:

25 The criminal justice training commission shall ensure that every
26 law enforcement agency in the state has an accurate and up-to-date
27 policy manual describing the statutes relating to juvenile runaways.

28 NEW SECTION. Sec. 738. If section 736 of this act is not
29 specifically referenced in the supplemental operating budget by June
30 30, 1994, section 736 of this act shall be null and void.

31 **PART VIII - JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1995**

32 NEW SECTION. Sec. 801. The legislature finds that the juvenile
33 justice act of 1977, chapter 13.40 RCW, requires substantial revision.
34 The legislature reaffirms the goals of the act, including the dual

1 goals of punishment and rehabilitation of juvenile offenders. The
2 legislature finds, however, that the substantive provisions of the act
3 are too structured to achieve fully the act's goals.

4 The framework created by the act has diminishing relevance to
5 today's violent and chronic offenders. Juveniles are committing
6 increasingly violent crimes, and they are committing these violent
7 crimes at an increasingly younger age. Simultaneously, juveniles
8 habitually commit minor offenses. Dispositions prescribed by the act
9 are not long enough to permit substantial rehabilitation of violent
10 offenders, and minor offenders receive no meaningful intervention. The
11 fixed system established by the act restricts the judiciary's efforts
12 to tailor punishment and rehabilitation to the juvenile's individual
13 needs. Additionally, substantial delays occur before the juvenile
14 offender is held accountable for criminal acts.

15 Juvenile offenders must learn personal accountability and must
16 accept responsibility for their criminal behavior. To this end, the
17 juvenile system must provide a swift response, meaningful punishment,
18 and effective rehabilitation. Therefore, sections 801 through 812 of
19 this act seek to accomplish the following goals: (1) Increasing the
20 speed of the juvenile justice system's response to juvenile offenders'
21 criminal behavior; (2) increasing the certainty of punishment and
22 intervention; (3) increasing judicial discretion and permitting judges
23 to tailor dispositions to the juvenile's offense; (4) expanding the
24 range of disposition alternatives to permit meaningful punishment and
25 effective rehabilitation; (5) increasing the likelihood that juveniles
26 will comply with the terms of their dispositions by creating compliance
27 incentives and, if necessary, placing the juveniles in supportive out-
28 of-home placements; and (6) reducing the complexity of the system.

29 **Sec. 802.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to
30 read as follows:

31 For the purposes of this chapter:

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

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

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

37 ~~(c) Assault in the second degree, extortion in the first degree,~~
38 ~~child molestation in the second degree, kidnapping in the second~~

1 ~~degree, robbery in the second degree, residential burglary, or burglary~~
2 ~~in the second degree, where such offenses include the infliction of~~
3 ~~bodily harm upon another or where during the commission of or immediate~~
4 ~~withdrawal from such an offense the perpetrator is armed with a deadly~~
5 ~~weapon or firearm as defined in RCW 9A.04.110;~~

6 ~~(2))~~) "Community service" means compulsory service, without
7 compensation, performed for the benefit of the community by the
8 offender as punishment for committing an offense. Community service
9 may be performed through public or private organizations or through
10 work crews;

11 ~~((+3))~~) (2) "Community supervision" means an order of disposition
12 by the court of an adjudicated youth not committed to the department
13 and an order granting a deferred adjudication pursuant to section 714
14 of this act. A community supervision order for a single offense may be
15 for a period of up to two years for a sex offense as defined by RCW
16 9.94A.030 and up to one year for other offenses. As a mandatory
17 condition of any term of community supervision, the court shall order
18 the juvenile to refrain from committing new offenses. As a mandatory
19 condition of community supervision, the court shall order the juvenile
20 to comply with the mandatory school attendance provisions of chapter
21 28A.225 RCW and to inform the school of the existence of this
22 requirement. Community supervision is an individualized program
23 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; or attendance at
36 school or other educational programs appropriate for the juvenile as
37 determined by the school district. Placement in community-based
38 rehabilitation programs is 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)) community
6 supervision officer as directed and to remain under the ((probation))
7 community supervision officer's supervision; and other conditions or
8 limitations as the court may require which may not 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. Confinement includes state and county group homes, foster
15 care homes, inpatient substance abuse programs, juvenile basic training
16 camps, and electronic monitoring. The department may operate or
17 contract to operate detention facilities for juveniles committed to the
18 department. Pretrial confinement or confinement of less than thirty-
19 one days imposed as part of a disposition or modification order may be
20 served consecutively or intermittently, in the discretion of the court
21 and may be served in a detention group home, detention foster home, or
22 with electronic monitoring. Detention group homes and detention foster
23 homes used for confinement shall not also be used for the placement of
24 dependent children. Confinement in detention group homes and detention
25 foster homes and electronic monitoring are subject to available funds;

26 ((+8)) (7) "Court", when used without further qualification,
27 means the juvenile court judge(s) or commissioner(s);

28 ((+9)) (8) "Criminal history" includes all criminal complaints
29 against the respondent for which, prior to the commission of a current
30 offense(~~(a)~~), the allegations were found correct by a court(~~(. If~~
31 ~~a respondent is convicted of two or more charges arising out of the~~
32 ~~same course of conduct, only the highest charge from among these shall~~
33 ~~count as an offense for the purposes of this chapter)~~); or ((b)) the
34 criminal complaint was diverted by a prosecutor pursuant to the
35 provisions of this chapter on agreement of the respondent and after an
36 advisement to the respondent that the criminal complaint would be
37 considered as part of the respondent's criminal history. Successfully
38 completed deferred adjudications shall not be considered part of the
39 respondent's criminal history;

1 (~~(+10)~~) (9) "Department" means the department of social and
2 health services;

3 (~~(+11)~~) (10) "Detention facility" means a county facility for the
4 physical confinement of a juvenile alleged to have committed an offense
5 or an adjudicated offender subject to a disposition or modification
6 order. "Detention facility" includes county group homes, foster care
7 homes, inpatient substance abuse programs, juvenile basic training
8 camps, and electronic monitoring;

9 (~~(+12)~~) (11) "Diversion unit" means any (~~(probation)~~) community
10 supervision counselor who enters into a diversion agreement with an
11 alleged youthful offender, or any other person, community
12 accountability board, or other entity except a law enforcement official
13 or entity, with whom the juvenile court administrator has contracted to
14 arrange and supervise such agreements pursuant to RCW 13.40.080, or any
15 person, community accountability board, or other entity specially
16 funded by the legislature to arrange and supervise diversion agreements
17 in accordance with the requirements of this chapter. For purposes of
18 this subsection, "community accountability board" means a board
19 comprised of members of the local community in which the juvenile
20 offender resides. The superior court shall appoint the members. The
21 boards shall consist of at least three and not more than seven members.
22 If possible, the board should include a variety of representatives from
23 the community, such as a law enforcement officer, teacher or school
24 administrator, high school student, parent, and business owner, and
25 should represent the cultural diversity of the local community;

26 (~~(+13)~~) (12) "Institution" means a juvenile facility established
27 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

28 (~~(+14)~~) (13) "Juvenile," "youth," and "child" mean any individual
29 who is under the chronological age of eighteen years and who has not
30 been previously transferred to adult court pursuant to RCW 13.40.110 or
31 who is otherwise under adult court jurisdiction;

32 (~~(+15)~~) (14) "Juvenile offender" means any juvenile who has been
33 found by the juvenile court to have committed an offense, including a
34 person eighteen years of age or older over whom jurisdiction has been
35 extended under RCW 13.40.300;

36 (~~(+16)~~) (15) "Manifest injustice" means a disposition that would
37 either impose an excessive penalty on the juvenile, would fail to
38 promote the juvenile's best rehabilitative interest, or would impose a

1 serious, and clear danger to society in light of the purposes of this
2 chapter;

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

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

9 ~~(a) Four misdemeanors;~~

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

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

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

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

15 ~~(f) One class B felony except: Any felony which constitutes an~~
16 ~~attempt to commit a class A felony; manslaughter in the first degree;~~
17 ~~assault in the second degree; extortion in the first degree; indecent~~
18 ~~liberties; kidnapping in the second degree; robbery in the second~~
19 ~~degree; burglary in the second degree; residential burglary; vehicular~~
20 ~~homicide; or arson in the second degree.~~

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

23 ~~(19)) (16) "Offense" means an act designated a violation or a~~
24 ~~crime if committed by an adult under the law of this state, under any~~
25 ~~ordinance of any city or county of this state, under any federal law,~~
26 ~~or under the law of another state if the act occurred in that state;~~

27 ~~((20)) (17) "Placement out of the home" means placement for~~
28 ~~twenty-four hour residential care in foster or group care, or with a~~
29 ~~court-approved custodian. Placement out of the home in county or~~
30 ~~state-funded placements is subject to available funds and beds;~~

31 ~~(18) "Respondent" means a juvenile who is alleged or proven to~~
32 ~~have committed an offense;~~

33 ~~((21)) (19) "Restitution" means financial reimbursement by the~~
34 ~~offender to the victim, and shall be limited to easily ascertainable~~
35 ~~damages for injury to or loss of property, actual expenses incurred for~~
36 ~~medical treatment for physical injury to persons, lost wages resulting~~
37 ~~from physical injury, and costs of the victim's counseling reasonably~~
38 ~~related to the offense if the offense is a sex offense. Restitution~~
39 ~~shall not include reimbursement for damages for mental anguish, pain~~

1 and suffering, or other intangible losses. Nothing in this chapter
2 shall limit or replace civil remedies or defenses available to the
3 victim or offender;

4 ~~((+22))~~ (20) "Secretary" means the secretary of the department of
5 social and health services;

6 ~~((+23))~~ (21) "Services" mean services which provide alternatives
7 to incarceration for those juveniles who have pleaded or been
8 adjudicated guilty of an offense or have signed a diversion agreement
9 pursuant to this chapter;

10 ~~((+24))~~ (22) "Sex offense" means an offense defined as a sex
11 offense in RCW 9.94A.030;

12 ~~((+25))~~ (23) "Sexual motivation" means that one of the purposes
13 for which the respondent committed the offense was for the purpose of
14 his or her sexual gratification;

15 ~~((+26))~~ (24) "Foster care" means temporary physical care in a
16 foster family home or group care facility as defined in RCW 74.15.020
17 and licensed by the department, or other legally authorized care;

18 ~~((+27))~~ (25) "Violation" means an act or omission, which if
19 committed by an adult, must be proven beyond a reasonable doubt, and is
20 punishable by sanctions which do not include incarceration;

21 (26) "Deadly weapon" means a deadly weapon as defined in RCW
22 9.94A.125;

23 (27) "Assistant secretary" means the assistant secretary for
24 juvenile rehabilitation within the department;

25 (28) "Violent offense" means violent offense as defined in RCW
26 9.94A.030.

27 **Sec. 803.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to
28 read as follows:

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

33 (2) The commission shall be composed of the secretary or the
34 secretary's designee and the following ~~((nine))~~ members appointed by
35 the governor, subject to confirmation by the senate: (a) ~~((A))~~ Two
36 superior court judges; (b) ~~((a))~~ two prosecuting ~~((attorney))~~
37 prosecuting attorneys; (c) a law enforcement officer; (d) an
38 administrator of juvenile court services; (e) ~~((a))~~ two public

1 defenders actively practicing in juvenile court; (f) a county
2 legislative official or county executive; and (g) three other persons
3 who have demonstrated significant interest in the adjudication and
4 disposition of juvenile offenders. Additionally, the speaker of the
5 house of representatives and the president of the senate shall each
6 appoint two nonvoting members to the commission, one from each of the
7 two largest caucuses in each house. In making the appointments, the
8 governor shall seek the recommendations of the association of superior
9 court judges in respect to the members who ~~((is a))~~ are superior court
10 judges; of Washington prosecutors in respect to the prosecuting
11 ~~((attorney))~~ or deputy prosecuting attorney members; of the Washington
12 association of sheriffs and police chiefs in respect to the member who
13 is a law enforcement officer; of juvenile court administrators in
14 respect to the member who is a juvenile court administrator; and of the
15 state bar association in respect to the public defender member; and of
16 the Washington association of counties in respect to the member who is
17 either a county legislative official or county executive.

18 (3) The ~~((secretary or the secretary's designee))~~ governor shall
19 ~~((serve as chairman))~~ designate the chair of the commission, who shall
20 be neither the secretary nor the secretary's designee.

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

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

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

34 **Sec. 804.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to
35 read as follows:

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

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

4 (ii) (~~(specifically)~~) Review (~~(the guidelines relating to the~~
5 ~~confinement of minor and first offenders as well as)~~) the use of
6 diversion, (~~(and)~~) deferred adjudications, and suspended confinement or
7 commitment;

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

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

13 (b) Solicit the comments and suggestions of the juvenile justice
14 community, including juvenile justice advisory committees of local law
15 and justice councils, concerning disposition standards, effectiveness,
16 and proportionality; (~~(and)~~)

17 (c) Make recommendations to the legislature regarding revisions or
18 modifications of the disposition standards (~~(in accordance with RCW~~
19 13.40.030));

20 (d) Implement a comprehensive tracking program to analyze
21 recidivism among juvenile offenders, particularly among offenders who
22 receive alternatives such as diversion, deferred adjudication, and
23 suspended confinement or commitment. The commission shall include
24 information and statistics about juvenile recidivism in the
25 commission's annual report;

26 (e) If the commission identifies racial or other
27 disproportionalities at any stage of administration of juvenile
28 justice, identify the disproportionalities in the annual report and
29 make recommendations for corrective measures; and

30 (f) Review the instances in which the court enters a finding
31 pursuant to RCW 13.40.160(16) that the court has declined to exercise
32 a disposition option due to lack of funds, services, or bed space. The
33 commission shall document the number and circumstances of these
34 findings in its annual report.

35 The evaluations shall be submitted to the legislature on December
36 1 of each (~~(even-numbered)~~) year (~~(thereafter)~~).

37 (2)(a) If sufficient funds are not provided for (b) of this
38 subsection, it is the responsibility of the department to: (~~(a)~~) (i)
39 Provide the commission with available data concerning the

1 implementation of the disposition standards and related statutes and
2 their effect on the performance of the department's responsibilities
3 relating to juvenile offenders; ~~((b))~~ (ii) at the request of the
4 commission, provide technical and administrative assistance to the
5 commission in the performance of its responsibilities; and ~~((e))~~
6 (iii) provide the commission and legislature with recommendations for
7 modification of the disposition standards.

8 (b) If sufficient funds are provided for this subsection (2)(b),
9 the commission may use the staff, resources, and executive officer of
10 the sentencing guidelines commission. The office of financial
11 management may determine the number of additional staff needed to
12 supplement the staff of the sentencing guidelines commission in order
13 to provide the juvenile disposition standards commission with a
14 research staff of sufficient size and with sufficient resources to
15 accomplish its duties.

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.

31 (5) The commission shall adopt its own bylaws.

32 **Sec. 805.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to
33 read as follows:

34 ~~((1)(a) The juvenile disposition standards commission shall~~
35 ~~recommend to the legislature no later than November 1st of each year~~
36 ~~disposition standards for all offenses. The standards shall establish,~~
37 ~~in accordance with the purposes of this chapter, ranges which may~~
38 ~~include terms of confinement and/or community supervision established~~

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

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

35 ((2) In developing recommendations for the permissible ranges of
36 confinement under this section the commission shall be subject to the
37 following limitations:

1 ~~(a) Where the maximum term in the range is ninety days or less,~~
2 ~~the minimum term in the range may be no less than fifty percent of the~~
3 ~~maximum term in the range;~~
4 ~~(b) Where the maximum term in the range is greater than ninety~~
5 ~~days but not greater than one year, the minimum term in the range may~~
6 ~~be no less than seventy-five percent of the maximum term in the range;~~
7 ~~and~~
8 ~~(c) Where the maximum term in the range is more than one year, the~~
9 ~~minimum term in the range may be no less than eighty percent of the~~
10 ~~maximum term in the range.))~~

11 **Sec. 806.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
12 read as follows:

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

23 (2) For purposes of disposition:

24 (a) ~~((Violations which are current offenses count as~~
25 ~~misdemeanors))~~ Prior to disposition, the county shall conduct a
26 predisposition diagnostic evaluation of the juvenile and shall prepare
27 a report of the evaluation. The county shall provide this report to
28 the court. The evaluation shall include an assessment of the
29 juvenile's rehabilitative needs including but not limited to the
30 juvenile's needs for treatment, therapy, and education. The evaluation
31 shall also include a preliminary assessment of the security risks posed
32 by the juvenile;

33 (b) Violations may not count as part of the offender's criminal
34 history;

35 (c) In no event may a disposition for a violation include
36 confinement.

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

4 (a) Consider the facts supporting the allegations of criminal
5 conduct by the respondent;

6 (b) Consider information and arguments offered by parties and
7 their counsel;

8 (c) Consider any predisposition reports;

9 (d) Consult with the respondent's parent, guardian, or custodian
10 on the appropriateness of dispositional options under consideration and
11 afford the respondent and the respondent's parent, guardian, or
12 custodian an opportunity to speak in the respondent's behalf;

13 (e) Allow the victim or a representative of the victim and an
14 investigative law enforcement officer to speak;

15 (f) Determine the amount of restitution owing to the victim, if
16 any;

17 (g) (~~Determine whether the respondent is a serious offender, a~~
18 ~~middle offender, or a minor or first offender~~) Consider the types of
19 treatment, therapy, education, and other rehabilitative services that
20 would be most effective at rehabilitating the offender;

21 (h) Consider whether or not any of the following mitigating
22 factors exist:

23 (i) The respondent's conduct neither caused nor threatened serious
24 bodily injury or the respondent did not contemplate that his or her
25 conduct would cause or threaten serious bodily injury;

26 (ii) The respondent acted under strong and immediate provocation;

27 (iii) The respondent was suffering from a mental or physical
28 condition that significantly reduced his or her culpability for the
29 offense though failing to establish a defense;

30 (iv) Prior to his or her detection, the respondent compensated or
31 made a good faith attempt to compensate the victim for the injury or
32 loss sustained; and

33 (v) There has been at least one year between the respondent's
34 current offense and any prior criminal offense;

35 (i) Consider whether or not any of the following aggravating
36 factors exist:

37 (i) In the commission of the offense, or in flight therefrom, the
38 respondent inflicted or attempted to inflict serious bodily injury to
39 another;

1 (ii) The offense was committed in an especially heinous, cruel, or
2 depraved manner;

3 (iii) The victim or victims were particularly vulnerable;

4 (iv) The respondent has a recent criminal history or has failed to
5 comply with conditions of a recent dispositional order or diversion
6 agreement;

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

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

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

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

16 (a) The sex of the respondent;

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

19 (c) The creed or religion of the respondent or the respondent's
20 family;

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

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

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

28 **Sec. 807.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to
29 read as follows:

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

35 ~~If the court concludes, and enters reasons for its conclusion,~~
36 ~~that disposition within the standard range would effectuate a manifest~~
37 ~~injustice the court shall impose a disposition outside the standard~~
38 ~~range, as indicated in option B of schedule D-3, RCW 13.40.0357. The~~

1 court's finding of manifest injustice shall be supported by clear and
2 convincing evidence.

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

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

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

36 (3) Where a respondent is found to have committed an offense for
37 which the respondent declined to enter into a diversion agreement, the
38 court shall impose a term of community supervision limited to the

1 conditions allowed in a diversion agreement as provided in RCW
2 13.40.080(2) as now or hereafter amended.

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

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

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

16 (c) Only if the court concludes, and enters reasons for its
17 conclusions, that disposition as provided in subsection (4)(a) or (b)
18 of this section would effectuate a manifest injustice, the court shall
19 sentence the juvenile to a maximum term, and the provisions of RCW
20 13.40.030(2), as now or hereafter amended, shall be used to determine
21 the range. The court's finding of manifest injustice shall be
22 supported by clear and convincing evidence.

23 (d) A disposition pursuant to subsection (4)(c) of this section is
24 appealable under RCW 13.40.230, as now or hereafter amended, by the
25 state or the respondent. A disposition pursuant to subsection (4) (a)
26 or (b) of this section is not appealable under RCW 13.40.230 as now or
27 hereafter amended.

28 (5)) The court may impose a disposition as provided in this
29 section for any juvenile adjudicated for an offense. Offenders
30 eligible for the juvenile offender basic training camp program may
31 receive a disposition under section 727 of this act.

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

34 (a) The juvenile's age and maturity;

35 (b) The juvenile's criminal history and the recency of that
36 criminal history;

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

38 (d) Whether the juvenile complied with the terms of the
39 disposition imposed for prior offenses;

1 (e) The seriousness of the offense;

2 (f) Whether the juvenile's adjudication resulted from accomplice
3 liability; and

4 (g) Whether any aggravating or mitigating factors apply.

5 (3)(a) For a juvenile adjudicated for a misdemeanor or a gross
6 misdemeanor, the court shall impose a disposition comprised of any of
7 the following:

8 0 - 12 Months of community supervision;

9 0 - 150 Hours of community service;

10 0 - \$100 Fine;

11 0 - 30 Days in confinement if the juvenile has prior criminal
12 history or a prior deferred adjudication.

13 (b) The court shall not commit a juvenile adjudicated of a
14 misdemeanor or gross misdemeanor to the department unless the court
15 enters a finding that a disposition under (a) of this subsection would
16 effectuate a manifest injustice.

17 (4)(a) Except as provided in (c) of this subsection, for a
18 juvenile adjudicated of a class C or B felony that is not: A violent
19 offense, a crime against persons as defined in RCW 9.94A.440(2), or a
20 crime of harassment as defined in RCW 9A.46.060, the court shall impose
21 a disposition comprised of any of the following:

22 0 - 12 Months of community supervision;

23 0 - 150 Hours of community service;

24 0 - \$100 Fine;

25 5 - 60 days of confinement or commitment to the department.

26 (b) Except as provided in (c) of this subsection, the court shall
27 not commit a juvenile adjudicated under this subsection (4) to the
28 department for more than sixty days unless (i) the court enters a
29 finding that a disposition under (a) of this subsection would
30 effectuate a manifest injustice; or (ii) the juvenile has a significant
31 criminal history that would support a finding of an aggravating factor
32 under RCW 13.40.150(3) if the criminal history was more recent.

33 (c)(i) If a respondent is found to have been in possession of a
34 firearm in violation of RCW 9.41.040(1)(e), the court shall impose a
35 determinate disposition of a minimum of thirty days' confinement. If
36 the court imposes a determinate disposition of thirty days, the court
37 may also impose up to a year of community supervision.

1 (ii) If a respondent is found to have delivered a firearm in
2 violation of RCW 9.41.080, the court shall commit the offender to the
3 department for one hundred twenty days' confinement.

4 (iii) If a respondent is found to have committed an offense of
5 theft of a firearm as defined in section 301 of this act, the court
6 shall commit the offender to the department for one hundred twenty
7 days' confinement.

8 (d) An offender given a disposition under (c) (i), (ii), or (iii)
9 of this subsection shall not be released prior to expiration of the
10 court-ordered term of confinement.

11 (e) Any term of confinement ordered pursuant to (c) (i), (ii), or
12 (iii) of this subsection shall run consecutively to any term of
13 confinement imposed in the same disposition for other offenses.

14 (f) The court may suspend all or a portion of any term of
15 confinement or commitment imposed under this subsection (4). In
16 addition to the suspended confinement or commitment, the court shall
17 impose community supervision, community service, or a fine as provided
18 in (a) of this subsection.

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

23 0 - 12 Months community supervision;

24 0 - 150 Hours community service;

25 0 - \$100 Fine;

26 5 Days to 129 weeks in confinement or commitment to the
27 department.

28 (b) The court shall not commit a juvenile adjudicated under this
29 subsection (5) to the department in excess of one hundred twenty-nine
30 weeks unless the court enters a finding that a disposition under this
31 subsection (5) would effect a manifest injustice. The basis for the
32 manifest injustice must be a basis other than the offender's criminal
33 history as described in RCW 13.40.150(3)(i)(iv).

34 (c) The court may suspend all or a portion of any term of
35 confinement or commitment imposed under this subsection (5). In
36 addition to the suspended confinement or commitment, the court shall
37 impose community supervision, community service, or a fine as provided
38 in (a)(i) of this subsection.

1 (6)(a) If a juvenile is adjudicated of a class A felony, an
2 attempt to commit a class A felony, or a sex or violent offense, the
3 court shall impose a disposition of the following:

4 52 - 224 Weeks committed to the department.

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

8 (c) If the juvenile is adjudicated of a sex offense, other than a
9 sex offense that is also a serious violent offense as defined by RCW
10 9.94A.030, the court need not impose a disposition under this
11 subsection (6). The court may instead order a treatment disposition
12 option under subsection (12) of this section.

13 (d) When a court adjudicates a juvenile of a sex offense, the
14 court shall impose a disposition as provided in this subsection (6), as
15 modified by this subsection (6)(d), unless the court orders a
16 disposition under subsection (12) of this section. In addition to the
17 term of commitment imposed under this subsection (6), the court shall
18 impose a term of postrelease supervision not to exceed five years. The
19 department shall provide the postrelease supervision. If the juvenile
20 receives treatment while committed, the court, as a condition of
21 postrelease supervision, may order the juvenile to continue with a
22 particular treatment program for all or a portion of the term of
23 postrelease supervision. The department may recommend to the
24 sentencing court whether the option of continuing treatment is
25 appropriate. Upon the recommendation of the department, the court may
26 either reduce the term of postrelease supervision or impose additional
27 or more restrictive terms of postrelease supervision. The postrelease
28 supervision required by this section shall be in addition to any term
29 of parole imposed by the department.

30 (7) If the court finds that the respondent or an accomplice was
31 armed with a deadly weapon as provided in section 718 of this act, the
32 court shall determine the standard range disposition for the offense
33 pursuant to this section. One hundred eighty days of confinement shall
34 be added to the entire standard range disposition of confinement if the
35 offender or an accomplice was armed with a deadly weapon when the
36 offender committed: (a) Any violent offense; or (b) escape in the
37 first degree (RCW 9A.76.110), burglary in the second degree (RCW
38 9A.52.030), theft of livestock in the first or second degree (RCW
39 9A.56.080), or any felony drug offense. If the offender or an

1 accomplice was armed with a deadly weapon and the offender is being
2 adjudicated for an anticipatory felony offense under chapter 9A.28 RCW
3 to commit one of the offenses listed in this subsection, one hundred
4 eighty days shall be added to the entire standard range disposition of
5 confinement. The department shall not release the offender until the
6 offender has served a minimum of one hundred eighty days in confinement
7 unless the juvenile is committed to and successfully completes the
8 juvenile offender basic training camp disposition option.

9 (8) In all cases, the court shall impose a determinate
10 disposition.

11 (9) If the court concludes, and enters reasons for its conclusion,
12 that disposition within the standard range would effectuate a manifest
13 injustice, the court shall impose a determinate disposition outside the
14 standard range. If the court imposes a disposition below the standard
15 range due to a manifest injustice, the disposition shall be comprised
16 of community supervision or confinement, or both. The court's finding
17 of manifest injustice shall be supported by clear and convincing
18 evidence. A disposition outside the standard range shall be appealable
19 under RCW 13.40.230, by the state or respondent. A disposition within
20 the standard range is not appealable.

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

23 (11) In all disposition orders that include commitment to the
24 department, the court shall make a finding of reasonable rehabilitative
25 goals to be achieved by the juvenile during the commitment term. These
26 goals may include, by way of example and not limitation, completion of
27 substance abuse treatment, completion of anger management courses, and
28 achievement of academic, educational, or vocational goals, such as
29 grade-level reading or GED completion.

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

36 The report of the examination shall include at a minimum the
37 following: The respondent's version of the facts and the official
38 version of the facts, the respondent's offense history, an assessment
39 of problems in addition to alleged deviant behaviors, the respondent's

1 social, educational, and employment situation, and other evaluation
2 measures used. The report shall set forth the sources of the
3 evaluator's information.

4 The examiner shall assess and report regarding the respondent's
5 amenability to treatment and relative risk to the community. A
6 proposed treatment plan shall be provided and shall include, at a
7 minimum:

8 (a)(i) Frequency and type of contact between the offender and
9 therapist;

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

12 (iii) Monitoring plans, including any requirements regarding
13 living conditions, lifestyle requirements, and monitoring by family
14 members, legal guardians, or others;

15 (iv) Anticipated length of treatment; and

16 (v) Recommended crime-related prohibitions.

17 The court on its own motion may order, or on a motion by the state
18 shall order, a second examination regarding the offender's amenability
19 to treatment. The evaluator shall be selected by the party making the
20 motion. The defendant shall pay the cost of any second examination
21 ordered unless the court finds the defendant to be indigent in which
22 case the state shall pay the cost.

23 After receipt of reports of the examination, the court shall then
24 consider whether the offender and the community will benefit from use
25 of this special sex offender disposition alternative and consider the
26 victim's opinion whether the offender should receive a treatment
27 disposition under this section. If the court determines that this
28 special sex offender disposition alternative is appropriate, then the
29 court shall impose a determinate disposition within the standard range
30 for the offense, and the court may suspend the execution of the
31 disposition and place the offender on community supervision for (~~up~~
32 ~~to~~) not less than two years. As a condition of the suspended
33 disposition, the court may impose the conditions of community
34 supervision and other conditions, including up to thirty days of
35 confinement and requirements that the offender do any one or more of
36 the following:

37 (b)(i) Devote time to a specific education, employment, or
38 occupation;

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

12 (iii) Remain within prescribed geographical boundaries and notify
13 the court or the (~~probation~~) community supervision counselor prior to
14 any change in the offender's address, educational program, or
15 employment;

16 (iv) Report to the prosecutor and the (~~probation~~) community
17 supervision counselor prior to any change in a sex offender treatment
18 provider. This change shall have prior approval by the court;

19 (v) Report as directed to the court and a (~~probation~~) community
20 supervision counselor;

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

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

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

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

34 Except as provided in this subsection (~~(+5)~~) (12), after July 1,
35 1991, examinations and treatment ordered pursuant to this subsection
36 shall only be conducted by sex offender treatment providers certified
37 by the department of health pursuant to chapter 18.155 RCW. A sex
38 offender therapist who examines or treats a juvenile sex offender
39 pursuant to this subsection does not have to be certified by the

1 department of health pursuant to chapter 18.155 RCW if the court finds
2 that: (A) The offender has already moved to another state or plans to
3 move to another state for reasons other than circumventing the
4 certification requirements; (B) no certified providers are available
5 for treatment within a reasonable geographical distance of the
6 offender's home; and (C) the evaluation and treatment plan comply with
7 this subsection (~~((5))~~) (12) and the rules adopted by the department of
8 health.

9 If the offender violates any condition of the disposition or the
10 court finds that the respondent is failing to make satisfactory
11 progress in treatment, the court may revoke the suspension and order
12 execution of the (~~(sentence)~~) disposition or the court may impose a
13 penalty of up to thirty days' confinement for violating conditions of
14 the disposition. The court may order both execution of the disposition
15 and up to thirty days' confinement for the violation of the conditions
16 of the disposition, in which case the term of confinement imposed for
17 violating conditions of the disposition shall run consecutively to the
18 term of confinement imposed under the disposition. The court shall
19 give credit for any confinement time previously served if that
20 confinement was for the offense for which the suspension is being
21 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))~~) (13) Whenever a juvenile offender is entitled to credit
28 for time spent in detention prior to a dispositional order, the
29 dispositional order shall specifically state the number of days of
30 credit for time served.

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

34 (~~((8))~~) (14) In no case shall the term of confinement imposed by the
35 court at disposition exceed that to which an adult could be subjected
36 for the same offense.

37 (15) Whenever a dispositional order requires a juvenile to
38 participate in a treatment program, the court may require the

1 juvenile's parents, guardians, or custodians to participate in the
2 treatment program with the juvenile.

3 (16) If a court does not exercise a disposition option available
4 under this chapter due to a lack of available funds, services, or bed
5 space, the court shall enter a finding in the disposition that an
6 alternative disposition was not ordered due to the lack of available
7 funds, services, or bed space.

8 **Sec. 808.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
9 read as follows:

10 Unless otherwise provided in this chapter, where a disposition is
11 imposed on a youth for two or more offenses, the terms shall run
12 consecutively(~~(, subject to the following limitations:~~

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

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

20 ~~(3) The aggregate of all consecutive terms of community~~
21 ~~supervision shall not exceed two years in length, or require payment of~~
22 ~~more than two hundred dollars in fines or the performance of more than~~
23 ~~two hundred hours of community service)) or concurrently in the court's~~
24 discretion, except as provided in RCW 13.40.160(4)(e).

25 **Sec. 809.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to
26 read as follows:

27 (1) A juvenile sentenced to a term of confinement to be served
28 under the supervision of the department shall not be released from the
29 physical custody of the department prior to the release date
30 established under RCW 13.40.210 except as otherwise provided in this
31 section.

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

35 (a) Sixty percent of the ~~((minimum))~~ term of confinement has been
36 served; and

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

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

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

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

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

12 (4) Prior to authorizing a leave, the secretary shall require a
13 written leave plan, which shall detail the purpose of the leave and how
14 it is to be achieved, the address at which the juvenile shall reside,
15 the identity of the person responsible for supervising the juvenile
16 during the leave, and a statement by such person acknowledging
17 familiarity with the leave plan and agreeing to supervise the juvenile
18 and to notify the secretary immediately if the juvenile violates any
19 terms or conditions of the leave. The leave plan shall include such
20 terms and conditions as the secretary deems appropriate and shall be
21 signed by the juvenile.

22 (5) Upon authorizing a leave, the secretary shall issue to the
23 juvenile an authorized leave order which shall contain the name of the
24 juvenile, the fact that the juvenile is on leave from a designated
25 facility, the time period of the leave, and the identity of an
26 appropriate official of the department to contact when necessary. The
27 authorized leave order shall be carried by the juvenile at all times
28 while on leave.

29 (6) Prior to the commencement of any authorized leave, the
30 secretary shall give notice of the leave to the appropriate law
31 enforcement agency in the jurisdiction in which the juvenile will
32 reside during the leave period. The notice shall include the identity
33 of the juvenile, the time period of the leave, the residence of the
34 juvenile during the leave, and the identity of the person responsible
35 for supervising the juvenile during the leave.

36 (7) The secretary may authorize a leave, which shall not exceed
37 forty-eight hours plus travel time, to meet an emergency situation such
38 as a death or critical illness of a member of the juvenile's family.
39 The secretary may authorize a leave, which shall not exceed the period

1 of time medically necessary, to obtain medical care not available in a
2 juvenile facility maintained by the department. In cases of emergency
3 or medical leave the secretary may waive all or any portions of
4 subsections (2)(a), (3), (4), (5), and (6) of this section.

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

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

11 (10) Notwithstanding the provisions of this section, a juvenile
12 placed in minimum security status may participate in work, educational,
13 community service, or treatment programs in the community up to twelve
14 hours a day if approved by the secretary. Such a release shall not be
15 deemed a leave of absence.

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

18 **Sec. 810.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to
19 read as follows:

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

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

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

5 (c) The department shall provide this report to the committing
6 court. The court, after considering the department's report, shall
7 determine a release or discharge date for the juvenile, which date
8 shall fall on or before expiration of the original term of commitment.
9 If the court sets a release date prior to expiration of the original
10 term, the court may suspend the remainder of the term.

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

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

15 (f) After the court determines a release date, the secretary shall
16 release any juvenile committed to the custody of the department within
17 four calendar days prior to the juvenile's release date or on the
18 release date set under this chapter(~~(: PROVIDED, That)~~). Days spent
19 in the custody of the department shall be tolled by any period of time
20 during which a juvenile has absented himself or herself from the
21 department's supervision without the prior approval of the secretary or
22 the secretary's designee.

23 (g) The early release provisions of this section do not apply to
24 confinement imposed under RCW 13.40.160(4)(c).

25 (2) The secretary shall monitor the average daily population of
26 the state's juvenile residential facilities. When the secretary
27 concludes that in-residence population of residential facilities
28 exceeds one hundred five percent of the rated bed capacity specified in
29 statute, or in absence of such specification, as specified by the
30 department in rule, the secretary may recommend reductions to the
31 governor. On certification by the governor that the recommended
32 reductions are necessary, the secretary has authority to
33 administratively release a sufficient number of offenders to reduce in-
34 residence population to one hundred percent of rated bed capacity. The
35 secretary shall release those offenders who have served the greatest
36 proportion of their sentence. However, the secretary may deny release
37 in a particular case at the request of an offender, or if the secretary
38 finds that there is no responsible custodian, as determined by the
39 department, to whom to release the offender, or if the release of the

1 offender would pose a clear danger to society. The department shall
2 notify the committing court of the release at the ~~((end of each~~
3 ~~calendar year))~~ time of release if any such early releases have
4 occurred ~~((during that year))~~ as a result of excessive in-residence
5 population. In no event shall ~~((a serious))~~ an offender ~~((, as defined~~
6 ~~in RCW 13.40.020(1))~~ adjudicated of a violent offense be granted
7 release under the provisions of this subsection.

8 (3) Following the juvenile's release pursuant to subsection (1) of
9 this section, the secretary may require the juvenile to comply with a
10 program of parole to be administered by the department in his or her
11 community which shall last no longer than eighteen months, except that
12 in the case of a juvenile sentenced for rape in the first or second
13 degree, rape of a child in the first or second degree, child
14 molestation in the first degree, or indecent liberties with forcible
15 compulsion, the period of parole shall be twenty-four months. A parole
16 program is mandatory for offenders released under subsection (2) of
17 this section. The secretary shall, for the period of parole,
18 facilitate the juvenile's reintegration into his or her community and
19 to further this goal may require the juvenile to: (a) Undergo
20 available medical or psychiatric treatment; (b) report as directed to
21 a parole officer; (c) pursue a course of study or vocational training;
22 and (d) remain within prescribed geographical boundaries and notify the
23 department of any change in his or her address ~~((; and (e)))~~. As a
24 mandatory condition of any term of parole, the secretary shall require
25 the juvenile to refrain from committing new offenses. As a mandatory
26 condition of community supervision, the court shall order the juvenile
27 to comply with the mandatory school attendance provisions of chapter
28 28A.225 RCW and to inform the school of the existence of this
29 requirement. After termination of the parole period, the juvenile
30 shall be discharged from the department's supervision.

31 (4) The department may also modify parole for violation thereof.
32 If, after affording a juvenile all of the due process rights to which
33 he or she would be entitled if the juvenile were an adult, the
34 secretary finds that a juvenile has violated a condition of his or her
35 parole, the secretary shall order one of the following which is
36 reasonably likely to effectuate the purpose of the parole and to
37 protect the public: (a) Continued supervision under the same
38 conditions previously imposed; (b) intensified supervision with
39 increased reporting requirements; (c) additional conditions of

1 supervision authorized by this chapter; (d) except as provided in (e)
2 of this subsection, imposition of a period of confinement not to exceed
3 thirty days in a facility operated by or pursuant to a contract with
4 the state of Washington or any city or county for a portion of each day
5 or for a certain number of days each week with the balance of the days
6 or weeks spent under supervision; ~~((and))~~ (e) the secretary may order
7 any of the conditions or may return the offender to confinement in an
8 institution for the remainder of the sentence range if the offense for
9 which the offender was sentenced is rape in the first or second degree,
10 rape of a child in the first or second degree, child molestation in the
11 first degree, indecent liberties with forcible compulsion, or a sex
12 offense that is also a serious violent offense as defined by RCW
13 9.94A.030; and (f) if the secretary determines that the juvenile has
14 violated parole by committing a new offense, the secretary shall order
15 the imposition of thirty days' confinement as a penalty for the
16 violation. This period of confinement shall be in addition to any
17 confinement imposed as a disposition for the new offense.

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

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

25 **Sec. 811.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
26 read as follows:

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

30 An appeal under this section shall be heard solely upon the record
31 that was before the disposition court. No written briefs may be
32 required, and the appeal shall be heard within thirty days following
33 the date of sentencing and a decision rendered within fifteen days
34 following the argument. The supreme court shall promulgate any
35 necessary rules to effectuate the purposes of this section.

36 (2) To uphold a disposition outside the standard range, (~~(or which~~
37 ~~imposes confinement for a minor or first offender,)~~) the court of
38 appeals must find (a) that the reasons supplied by the disposition

1 judge are supported by the record which was before the judge and that
2 those reasons clearly and convincingly support the conclusion that a
3 disposition within the range(~~(, or nonconfinement for a minor or first~~
4 ~~offender,)) would constitute a manifest injustice, and (b) that the~~
5 sentence imposed was neither clearly excessive nor clearly too lenient.

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

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

13 (5) Pending appeal, a respondent may not be committed or detained
14 for a period of time in excess of the standard range for the offense(s)
15 committed or sixty days, whichever is longer. The disposition court
16 may impose conditions on release pending appeal as provided in RCW
17 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of
18 commitment or detention specified in this subsection, the court may
19 also impose such conditions on the respondent's release pending
20 disposition of the appeal.

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

23 NEW SECTION. **Sec. 812.** The following acts or parts of acts are
24 each repealed:

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

26 (2) RCW 13.40.0357 and 1994 c . . . s 716 (section 716 of this
27 act) & 1989 c 407 s 7;

28 (3) RCW 13.40.--- and 1994 c . . . s 719 (section 719 of this
29 act); and

30 (4) 1994 c . . . s 725 (section 725 of this act) (uncodified).

31 **PART IX - TECHNICAL PROVISIONS**

32 NEW SECTION. **Sec. 901.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 902.** Part and subpart headings and the table
2 of contents as used in this act do not constitute any part of the law.

3 NEW SECTION. **Sec. 903.** (1) Sections 101 through 111, 114 through
4 117, 119 through 134, 136 through 143, 201 through 601, and 701 through
5 738 of this act shall take effect July 1, 1994.

6 (2) Sections 801 through 812 of this act shall take effect July 1,
7 1995.

8 (3) Sections 112, 113, 118, and 135 of this act are necessary for
9 the immediate preservation of the public peace, health, or safety, or
10 support of the state government and its existing public institutions,
11 and shall take effect immediately.

12 NEW SECTION. **Sec. 904.** Sections 711, 717, 720, 723, and 724 of
13 this act shall expire July 1, 1995.

14 NEW SECTION. **Sec. 905.** (1) Sections 701 through 738 of this act
15 shall apply to offenses committed on or after July 1, 1994.

16 (2) Sections 801 through 812 of this act shall apply to offenses
17 committed on or after July 1, 1995.

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