

1 5491-S2 AAS 3/14/95

2 2SSB 5491 - S AMD - 206 (S2577.1)  
3 By Senator Smith

4 ADOPTED 3/14/95

5 On page 21, beginning on line 22, strike all of section 7

6 Renumber the remaining sections consecutively and correct any  
7 internal references accordingly.

8 2SSB 5491 - S AMD - 206 (S2577.1)  
9 By Senator Smith

10 ADOPTED 3/14/95

11 On page 1, line 2 of the title, after "13.40.010," strike  
12 "13.40.120,"

13 2SSB 5491 - S AMD - 205 (S2665.1)  
14 By Senator Pelz

15 ADOPTED 3/14/95

16 On page 21, after line 21, insert the following:

17 "**Sec. 7.** RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,  
18 & 1994 c 261 s 18 are each reenacted and amended to read as follows:

19 For the purposes of this chapter:

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

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

23 (b) Manslaughter in the first degree; or

24 (c) Assault in the second degree, extortion in the first degree,  
25 child molestation in the second degree, kidnapping in the second  
26 degree, robbery in the second degree, residential burglary, or burglary  
27 in the second degree, where such offenses include the infliction of  
28 bodily harm upon another or where during the commission of or immediate  
29 withdrawal from such an offense the perpetrator is armed with a deadly  
30 weapon;

31 (2) "Community service" means compulsory service, without  
32 compensation, performed for the benefit of the community by the

1 offender as punishment for committing an offense. Community service  
2 may be performed through public or private organizations or through  
3 work crews;

4 (3) "Community supervision" means an order of disposition by the  
5 court of an adjudicated youth not committed to the department or an  
6 order granting a deferred adjudication pursuant to RCW 13.40.125. A  
7 community supervision order for a single offense may be for a period of  
8 up to two years for a sex offense as defined by RCW 9.94A.030 and up to  
9 one year for other offenses. As a mandatory condition of any term of  
10 community supervision, the court shall order the juvenile to refrain  
11 from committing new offenses. As a mandatory condition of community  
12 supervision, the court shall order the juvenile to comply with the  
13 mandatory school attendance provisions of chapter 28A.225 RCW and to  
14 inform the school of the existence of this requirement. Community  
15 supervision is an individualized program comprised of one or more of  
16 the following:

- 17 (a) Community-based sanctions;
- 18 (b) Community-based rehabilitation;
- 19 (c) Monitoring and reporting requirements;
- 20 (d) Home detention;

21 (4) Community-based sanctions may include one or more of the  
22 following:

- 23 (a) A fine, not to exceed one hundred dollars;
- 24 (b) Community service not to exceed one hundred fifty hours of  
25 service;

26 (5) "Community-based rehabilitation" means one or more of the  
27 following: Attendance of information classes; counseling, outpatient  
28 substance abuse treatment programs, outpatient mental health programs,  
29 anger management classes, education or outpatient treatment programs to  
30 prevent animal cruelty, or other services; or attendance at school or  
31 other educational programs appropriate for the juvenile as determined  
32 by the school district. Placement in community-based rehabilitation  
33 programs is subject to available funds;

34 (6) "Monitoring and reporting requirements" means one or more of  
35 the following: Curfews; requirements to remain at home, school, work,  
36 or court-ordered treatment programs during specified hours;  
37 restrictions from leaving or entering specified geographical areas;  
38 requirements to report to the probation officer as directed and to  
39 remain under the probation officer's supervision; and other conditions

1 or limitations as the court may require which may not include  
2 confinement;

3 (7) "Confinement" means physical custody by the department of  
4 social and health services in a facility operated by or pursuant to a  
5 contract with the state, or physical custody in a detention facility  
6 operated by or pursuant to a contract with any county. The county may  
7 operate or contract with vendors to operate county detention  
8 facilities. The department may operate or contract to operate  
9 detention facilities for juveniles committed to the department.  
10 Pretrial confinement or confinement of less than thirty-one days  
11 imposed as part of a disposition or modification order may be served  
12 consecutively or intermittently, in the discretion of the court;

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

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

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

21 (b) The criminal complaint was diverted by a prosecutor pursuant to  
22 the provisions of this chapter on agreement of the respondent and after  
23 an advisement to the respondent that the criminal complaint would be  
24 considered as part of the respondent's criminal history. A  
25 successfully completed deferred adjudication shall not be considered  
26 part of the respondent's criminal history;

27 (10) "Department" means the department of social and health  
28 services;

29 (11) "Detention facility" means a county facility, paid for by the  
30 county, for the physical confinement of a juvenile alleged to have  
31 committed an offense or an adjudicated offender subject to a  
32 disposition or modification order. "Detention facility" includes  
33 county group homes, inpatient substance abuse programs, juvenile basic  
34 training camps, and electronic monitoring;

35 (12) "Diversion unit" means any probation counselor who enters into  
36 a diversion agreement with an alleged youthful offender, or any other  
37 person, community accountability board, or other entity except a law  
38 enforcement official or entity, with whom the juvenile court  
39 administrator has contracted to arrange and supervise such agreements

1 pursuant to RCW 13.40.080, or any person, community accountability  
2 board, or other entity specially funded by the legislature to arrange  
3 and supervise diversion agreements in accordance with the requirements  
4 of this chapter. For purposes of this subsection, "community  
5 accountability board" means a board comprised of members of the local  
6 community in which the juvenile offender resides. The superior court  
7 shall appoint the members. The boards shall consist of at least three  
8 and not more than seven members. If possible, the board should include  
9 a variety of representatives from the community, such as a law  
10 enforcement officer, teacher or school administrator, high school  
11 student, parent, and business owner, and should represent the cultural  
12 diversity of the local community;

13 (13) "Home detention" means a program of partial confinement in  
14 which an adjudicated youth not committed to the department or a  
15 juvenile granted a deferral of adjudication is confined in a private  
16 residence subject to electronic surveillance. Participation in home  
17 detention shall include attending a regular course of school study at  
18 regularly defined hours or maintaining current employment;

19 (14) "Institution" means a juvenile facility established pursuant  
20 to chapters 72.05 and 72.16 through 72.20 RCW;

21 (~~(14)~~) (15) "Juvenile," "youth," and "child" mean any individual  
22 who is under the chronological age of eighteen years and who has not  
23 been previously transferred to adult court pursuant to RCW 13.40.110 or  
24 who is otherwise under adult court jurisdiction;

25 (~~(15)~~) (16) "Juvenile offender" means any juvenile who has been  
26 found by the juvenile court to have committed an offense, including a  
27 person eighteen years of age or older over whom jurisdiction has been  
28 extended under RCW 13.40.300;

29 (~~(16)~~) (17) "Manifest injustice" means a disposition that would  
30 either impose an excessive penalty on the juvenile or would impose a  
31 serious, and clear danger to society in light of the purposes of this  
32 chapter;

33 (~~(17)~~) (18) "Middle offender" means a person who has committed an  
34 offense and who is neither a minor or first offender nor a serious  
35 offender;

36 (~~(18)~~) (19) "Minor or first offender" means a person whose  
37 current offense(s) and criminal history fall entirely within one of the  
38 following categories:

39 (a) Four misdemeanors;

- 1 (b) Two misdemeanors and one gross misdemeanor;
- 2 (c) One misdemeanor and two gross misdemeanors; and
- 3 (d) Three gross misdemeanors.

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

6 (~~(19)~~) (20) "Offense" means an act designated a violation or a  
7 crime if committed by an adult under the law of this state, under any  
8 ordinance of any city or county of this state, under any federal law,  
9 or under the law of another state if the act occurred in that state;

10 (~~(20)~~) (21) "Respondent" means a juvenile who is alleged or  
11 proven to have committed an offense;

12 (~~(21)~~) (22) "Restitution" means financial reimbursement by the  
13 offender to the victim, and shall be limited to easily ascertainable  
14 damages for injury to or loss of property, actual expenses incurred for  
15 medical treatment for physical injury to persons, lost wages resulting  
16 from physical injury, and costs of the victim's counseling reasonably  
17 related to the offense if the offense is a sex offense. Restitution  
18 shall not include reimbursement for damages for mental anguish, pain  
19 and suffering, or other intangible losses. Nothing in this chapter  
20 shall limit or replace civil remedies or defenses available to the  
21 victim or offender;

22 (~~(22)~~) (23) "Secretary" means the secretary of the department of  
23 social and health services. "Assistant secretary" means the assistant  
24 secretary for juvenile rehabilitation for the department;

25 (~~(23)~~) (24) "Services" mean services which provide alternatives  
26 to incarceration for those juveniles who have pleaded or been  
27 adjudicated guilty of an offense or have signed a diversion agreement  
28 pursuant to this chapter;

29 (~~(24)~~) (25) "Sex offense" means an offense defined as a sex  
30 offense in RCW 9.94A.030;

31 (~~(25)~~) (26) "Sexual motivation" means that one of the purposes  
32 for which the respondent committed the offense was for the purpose of  
33 his or her sexual gratification;

34 (~~(26)~~) (27) "Foster care" means temporary physical care in a  
35 foster family home or group care facility as defined in RCW 74.15.020  
36 and licensed by the department, or other legally authorized care;

37 (~~(27)~~) (28) "Violation" means an act or omission, which if  
38 committed by an adult, must be proven beyond a reasonable doubt, and is  
39 punishable by sanctions which do not include incarceration;

1       (~~(28)~~) (29) "Violent offense" means a violent offense as defined  
2 in RCW 9.94A.030."

3 **2SSB 5491** - S AMD - 205 (S2665.1)  
4       By Senator Pelz

5  
ADOPTED 3/14/95

6       On page 1, line 4 of the title, after "13.40.060;" insert  
7 "reenacting and amending RCW 13.40.020;"

8 **2SSB 5491** - S AMD - 208 (S2298.1)  
9       By Senators Newhouse, Smith and Deccio

10  
ADOPTED 3/14/95

11       On page 40, after line 6, insert the following:

12       "**Sec. 20.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended  
13 to read as follows:

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

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

19       (b) Relating to children alleged or found to be dependent as  
20 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

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

23       (d) To approve or disapprove alternative residential placement as  
24 provided in RCW 13.32A.170;

25       (e) Relating to juveniles alleged or found to have committed  
26 offenses, traffic infractions, or violations as provided in RCW  
27 13.40.020 through 13.40.230, unless:

28       (i) The juvenile court transfers jurisdiction of a particular  
29 juvenile to adult criminal court pursuant to RCW 13.40.110; or

30       (ii) The statute of limitations applicable to adult prosecution for  
31 the offense, traffic infraction, or violation has expired; or

32       (iii) The alleged offense or infraction is a traffic, fish,  
33 boating, or game offense or traffic infraction committed by a juvenile

1 sixteen years of age or older and would, if committed by an adult, be  
2 tried or heard in a court of limited jurisdiction, in which instance  
3 the appropriate court of limited jurisdiction shall have jurisdiction  
4 over the alleged offense or infraction: PROVIDED, That if such an  
5 alleged offense or infraction and an alleged offense or infraction  
6 subject to juvenile court jurisdiction arise out of the same event or  
7 incident, the juvenile court may have jurisdiction of both matters:  
8 PROVIDED FURTHER, That the jurisdiction under this subsection does not  
9 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)  
10 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited  
11 jurisdiction which confine juveniles for an alleged offense or  
12 infraction may place juveniles in juvenile detention facilities under  
13 an agreement with the officials responsible for the administration of  
14 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

15 (iv) The alleged offense is a traffic infraction, a violation of  
16 compulsory school attendance provisions under chapter 28A.225 RCW, or  
17 a misdemeanor, and a court of limited jurisdiction has assumed  
18 jurisdiction over those offenses as provided in section 22 of this act;  
19 or

20 (v) The juvenile is sixteen or seventeen years old and the alleged  
21 offense is: (A) A serious violent offense as defined in RCW 9.94A.030  
22 committed on or after June 13, 1994; or (B) a violent offense as  
23 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the  
24 juvenile has a criminal history consisting of: (I) One or more prior  
25 serious violent offenses; (II) two or more prior violent offenses; or  
26 (III) three or more of any combination of the following offenses: Any  
27 class A felony, any class B felony, vehicular assault, or manslaughter  
28 in the second degree, all of which must have been committed after the  
29 juvenile's thirteenth birthday and prosecuted separately. In such a  
30 case the adult criminal court shall have exclusive original  
31 jurisdiction.

32 If the juvenile challenges the state's determination of the  
33 juvenile's criminal history, the state may establish the offender's  
34 criminal history by a preponderance of the evidence. If the criminal  
35 history consists of adjudications entered upon a plea of guilty, the  
36 state shall not bear a burden of establishing the knowing and  
37 voluntariness of the plea;

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

1 (g) Relating to termination of a diversion agreement under RCW  
2 13.40.080, including a proceeding in which the divertee has attained  
3 eighteen years of age; and

4 (h) Relating to court validation of a voluntary consent to foster  
5 care placement under chapter 13.34 RCW, by the parent or Indian  
6 custodian of an Indian child, except if the parent or Indian custodian  
7 and child are residents of or domiciled within the boundaries of a  
8 federally recognized Indian reservation over which the tribe exercises  
9 exclusive jurisdiction.

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

14 (3) A juvenile subject to adult superior court jurisdiction under  
15 subsection (1)(e) (i) through (iv) of this section, who is detained  
16 pending trial, may be detained in a county detention facility as  
17 defined in RCW 13.40.020 pending sentencing or a dismissal.

18 NEW SECTION. Sec. 21. A new section is added to chapter 13.04 RCW  
19 to read as follows:

20 (1) Courts of limited jurisdiction, at local option of the county,  
21 city, or town of the court of limited jurisdiction, may exercise  
22 concurrent original jurisdiction with the juvenile court over traffic  
23 infractions, violations of compulsory school attendance provisions  
24 under chapter 28A.225 RCW, and misdemeanors when those offenses are  
25 allegedly committed by juveniles and:

26 (a)(i) The offense, which if committed by an adult, is punishable  
27 by sanctions which do not include incarceration; or

28 (ii) The prosecuting attorney's disposition recommendation does not  
29 include confinement as defined in RCW 13.40.020 as part of the  
30 disposition for the offense;

31 (b) The court of limited jurisdiction has a computer system which  
32 is linked to the state-wide criminal history information data system  
33 used by juvenile courts to track and record juvenile offenders'  
34 criminal history;

35 (c) The county legislative authority of the county in which the  
36 court of limited jurisdiction is located has authorized creation of  
37 concurrent jurisdiction between the court of limited jurisdiction and  
38 the county juvenile court; and



1 (d) The court of limited jurisdiction has an agreement with  
2 officials responsible for administering the county juvenile detention  
3 facility pursuant to RCW 13.04.035 and 13.20.060 that the court may  
4 order juveniles into the detention facility for an offense.

5 (2) The juvenile court shall retain jurisdiction over the offense  
6 if the juvenile is charged with another offense arising out of the same  
7 incident and the juvenile court has jurisdiction over the other  
8 offense.

9 (3) Jurisdiction under this section does not constitute a decline  
10 or transfer of juvenile court jurisdiction under RCW 13.40.110.

11 (4) The provisions of chapter 13.40 RCW shall apply to offenses  
12 prosecuted under this section.

13 NEW SECTION. **Sec. 22.** A new section is added to chapter 28A.225  
14 RCW to read as follows:

15 References to juvenile court in this chapter mean, in addition to  
16 the juvenile court of the superior court, courts of limited  
17 jurisdiction which have acquired jurisdiction pursuant to RCW  
18 13.04.030(1)(e)(iv) and section 22 of this act over juveniles who  
19 violate the provisions of this chapter. If a court of limited  
20 jurisdiction has jurisdiction over juveniles who violate this chapter,  
21 that court also has jurisdiction over parents charged with violations  
22 of this chapter.

23 **Sec. 23.** RCW 35.20.030 and 1993 c 83 s 3 are each amended to read  
24 as follows:

25 The municipal court shall have jurisdiction to try violations of  
26 all city ordinances and all other actions brought to enforce or recover  
27 license penalties or forfeitures declared or given by any such  
28 ordinances. It is empowered to forfeit cash bail or bail bonds and  
29 issue execution thereon, to hear and determine all causes, civil or  
30 criminal, arising under such ordinances, and to pronounce judgment in  
31 accordance therewith: PROVIDED, That for a violation of the criminal  
32 provisions of an ordinance no greater punishment shall be imposed than  
33 a fine of five thousand dollars or imprisonment in the city jail not to  
34 exceed one year, or both such fine and imprisonment, but the punishment  
35 for any criminal ordinance shall be the same as the punishment provided  
36 in state law for the same crime. The municipal court shall also have  
37 jurisdiction over juvenile offenses prosecuted pursuant to chapter

1 13.40 RCW if the court has acquired jurisdiction pursuant to RCW  
2 13.04.030(1)(e)(iv) and section 22 of this act. All civil and criminal  
3 proceedings in municipal court, and judgments rendered therein, shall  
4 be subject to review in the superior court by writ of review or on  
5 appeal: PROVIDED, That an appeal from the court's determination or  
6 order in a traffic infraction proceeding may be taken only in  
7 accordance with RCW 46.63.090(5). Costs in civil and criminal cases  
8 may be taxed as provided in district courts."

9 **2SSB 5491** - S AMD - 208 (S2298.1)  
10 By Senators Newhouse, Smith and Deccio  
11

ADOPTED 3/14/95

12 On page 1, line 4 of the title, after "13.40.045," strike "and  
13 13.40.060" and insert "13.40.060, 13.04.030, and 35.20.030"

14 On page 1, line 5 of the title, after "13.40 RCW;" insert "adding  
15 a new section to chapter 13.04 RCW; adding a new section to chapter  
16 28A.225 RCW;"

--- END ---