

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1853

Chapter 395, Laws of 1995

54th Legislature
1995 Regular Session

JUVENILE OFFENDERS--PROBATION BONDS

EFFECTIVE DATE: 7/23/95

Passed by the House March 8, 1995
Yeas 98 Nays 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 12, 1995
Yeas 48 Nays 0

JOEL PRITCHARD

President of the Senate

Approved May 16, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1853** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 16, 1995 - 3:15 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1853

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Smith, Padden, Campbell, Koster, Johnson, Blanton, Silver, Benton and Thompson)

Read first time 03/01/95.

1 AN ACT Relating to juveniles; amending RCW 13.40.0357, 13.40.040,
2 13.40.050, 13.40.125, 13.40.160, and 13.40.200; reenacting and amending
3 RCW 13.40.020; adding new sections to chapter 13.40 RCW; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40 RCW
7 to read as follows:

8 (1) As provided in this chapter, the court may order a juvenile to
9 post a probation bond as defined in RCW 13.40.020 or to deposit cash or
10 post other collateral in lieu of a probation bond, to enhance public
11 safety, increase the likelihood that a respondent will appear as
12 required to respond to charges, and increase compliance with community
13 supervision imposed under various alternative disposition options. The
14 parents or guardians of the juvenile may sign for a probation bond on
15 behalf of the juvenile or deposit cash or other collateral in lieu of
16 a bond if approved by the court.

17 (2) A parent or guardian who has signed for a probation bond,
18 deposited cash, or posted other collateral on behalf of a juvenile has
19 the right to notify the court if the juvenile violates any of the terms

1 and conditions of the bond. The parent or guardian who signed for a
2 probation bond may move the court to modify the terms of the bond or
3 revoke the bond without penalty to the surety or parent. The court
4 shall notify the surety if a parent or guardian notifies the court that
5 the juvenile has violated conditions of the probation bond and has
6 requested modification or revocation of the bond. At a hearing on the
7 motion, the court may consider the nature and seriousness of the
8 violation or violations and may either keep the bond in effect, modify
9 the terms of the bond with the consent of the parent or guardian and
10 surety, or revoke the bond. If the court revokes the bond the court
11 may require full payment of the face amount of the bond. In the
12 alternative, the court may revoke the bond and impose a partial payment
13 for less than the full amount of the bond or may revoke the bond
14 without imposing any penalty. In reaching its decision, the court may
15 consider the timeliness of the parent's or guardian's notification to
16 the court and the efforts of the parent and surety to monitor the
17 offender's compliance with conditions of the bond and release. A
18 surety shall have the same obligations and rights as provided sureties
19 in adult criminal cases. Rules of forfeiture and revocation of bonds
20 issued in adult criminal cases shall apply to forfeiture and revocation
21 of probation bonds issued under this chapter except as specifically
22 provided in this subsection.

23 **Sec. 2.** RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,
24 and 1994 c 261 s 18 are each reenacted and amended to read as follows:

25 For the purposes of this chapter:

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

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

29 (b) Manslaughter in the first degree; or

30 (c) Assault in the second degree, extortion in the first degree,
31 child molestation in the second degree, kidnapping in the second
32 degree, robbery in the second degree, residential burglary, or burglary
33 in the second degree, where such offenses include the infliction of
34 bodily harm upon another or where during the commission of or immediate
35 withdrawal from such an offense the perpetrator is armed with a deadly
36 weapon;

37 (2) "Community service" means compulsory service, without
38 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) Posting of a probation bond imposed pursuant to RCW 13.40.0357;

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

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

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

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

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

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

31 (a) Four misdemeanors;

32 (b) Two misdemeanors and one gross misdemeanor;

33 (c) One misdemeanor and two gross misdemeanors; and

34 (d) Three gross misdemeanors.

35 For purposes of this definition, current violations shall be
36 counted as misdemeanors;

37 (19) "Offense" means an act designated a violation or a crime if
38 committed by an adult under the law of this state, under any ordinance

1 of any city or county of this state, under any federal law, or under
2 the law of another state if the act occurred in that state;

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

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

15 (22) "Secretary" means the secretary of the department of social
16 and health services. "Assistant secretary" means the assistant
17 secretary for juvenile rehabilitation for the department;

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

22 (24) "Sex offense" means an offense defined as a sex offense in RCW
23 9.94A.030;

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

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

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

33 (28) "Violent offense" means a violent offense as defined in RCW
34 9.94A.030;

35 (29) "Probation bond" means a bond, posted with sufficient security
36 by a surety justified and approved by the court, to secure the
37 offender's appearance at required court proceedings and compliance with
38 court-ordered community supervision or conditions of release ordered
39 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of

1 cash or posting of other collateral in lieu of a bond if approved by
2 the court;

3 (30) "Surety" means an entity licensed under state insurance laws
4 or by the state department of licensing, to write corporate, property,
5 or probation bonds within the state, and justified and approved by the
6 superior court of the county having jurisdiction of the case.

7 **Sec. 3.** RCW 13.40.0357 and 1994 sp.s. c 7 s 522 are each amended
8 to read as follows:

9 **SCHEDULE A**

10 **DESCRIPTION AND OFFENSE CATEGORY**

11

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

12

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16 **Arson and Malicious Mischief**

17

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is	
	E class) (9A.48.090)	E
E	Tampering with Fire Alarm	
	Apparatus (9.40.100)	E
A	Possession of Incendiary Device	
	(9.40.120)	B+

29 **Assault and Other Crimes**

30 **Involving Physical Harm**

31

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment	
	(9A.36.050)	E

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36

1	C+	Promoting Suicide Attempt	
2		(9A.36.060)	D+
3	D+	Coercion (9A.36.070)	E
4	C+	Custodial Assault (9A.36.100)	D+
5		Burglary and Trespass	
6	B+	Burglary 1 (9A.52.020)	C+
7	B	Burglary 2 (9A.52.030)	C
8	D	Burglary Tools (Possession of)	
9		(9A.52.060)	E
10	D	Criminal Trespass 1 (9A.52.070)	E
11	E	Criminal Trespass 2 (9A.52.080)	E
12	D	Vehicle Prowling (9A.52.100)	E
13		Drugs	
14	E	Possession/Consumption of Alcohol	
15		(66.44.270)	E
16	C	Illegally Obtaining Legend Drug	
17		(69.41.020)	D
18	C+	Sale, Delivery, Possession of Legend	
19		Drug with Intent to Sell	
20		(69.41.030)	D+
21	E	Possession of Legend Drug	
22		(69.41.030)	E
23	B+	Violation of Uniform Controlled	
24		Substances Act - Narcotic Sale	
25		(69.50.401(a)(1)(i))	B+
26	C	Violation of Uniform Controlled	
27		Substances Act - Nonnarcotic Sale	
28		(69.50.401(a)(1)(ii))	C
29	E	Possession of Marihuana <40 grams	
30		(69.50.401(e))	E
31	C	Fraudulently Obtaining Controlled	
32		Substance (69.50.403)	C
33	C+	Sale of Controlled Substance	
34		for Profit (69.50.410)	C+
35	E	Unlawful Inhalation (9.47A.020)	E
36	B	Violation of Uniform Controlled	
37		Substances Act - Narcotic	

1		Counterfeit Substances	
2		(69.50.401(b)(1)(i))	B
3	C	Violation of Uniform Controlled	
4		Substances Act - Nonnarcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1) (ii), (iii), (iv))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(d))	C
11	C	Violation of Uniform Controlled	
12		Substances Act - Possession of a	
13		Controlled Substance	
14		(69.50.401(c))	C
15		Firearms and Weapons	
16	E	Carrying Loaded Pistol Without	
17		Permit (9.41.050)	E
18	C	Possession of Firearms by	
19		Minor (<18) (9.41.040(1)(e))	C
20	D+	Possession of Dangerous Weapon	
21		(9.41.250)	E
22	D	Intimidating Another Person by use	
23		of Weapon (9.41.270)	E
24		Homicide	
25	A+	Murder 1 (9A.32.030)	A
26	A+	Murder 2 (9A.32.050)	B+
27	B+	Manslaughter 1 (9A.32.060)	C+
28	C+	Manslaughter 2 (9A.32.070)	D+
29	B+	Vehicular Homicide (46.61.520)	C+
30		Kidnapping	
31	A	Kidnap 1 (9A.40.020)	B+
32	B+	Kidnap 2 (9A.40.030)	C+
33	C+	Unlawful Imprisonment	
34		(9A.40.040)	D+

1		Obstructing Governmental Operation	
2	E	Obstructing a ((Public-Servant))	
3		<u>Law Enforcement Officer</u>	
4		(9A.76.020)	E
5	E	Resisting Arrest (9A.76.040)	E
6	B	Introducing Contraband 1	
7		(9A.76.140)	C
8	C	Introducing Contraband 2	
9		(9A.76.150)	D
10	E	Introducing Contraband 3	
11		(9A.76.160)	E
12	B+	Intimidating a Public Servant	
13		(9A.76.180)	C+
14	B+	Intimidating a Witness	
15		(9A.72.110)	C+
16		Public Disturbance	
17	C+	Riot with Weapon (9A.84.010)	D+
18	D+	Riot Without Weapon	
19		(9A.84.010)	E
20	E	Failure to Disperse (9A.84.020)	E
21	E	Disorderly Conduct (9A.84.030)	E
22		Sex Crimes	
23	A	Rape 1 (9A.44.040)	B+
24	A-	Rape 2 (9A.44.050)	B+
25	C+	Rape 3 (9A.44.060)	D+
26	A-	Rape of a Child 1 (9A.44.073)	B+
27	B	Rape of a Child 2 (9A.44.076)	C+
28	B	Incest 1 (9A.64.020(1))	C
29	C	Incest 2 (9A.64.020(2))	D
30	D+	Indecent Exposure	
31		(Victim <14) (9A.88.010)	E
32	E	Indecent Exposure	
33		(Victim 14 or over) (9A.88.010)	E
34	B+	Promoting Prostitution 1	
35		(9A.88.070)	C+
36	C+	Promoting Prostitution 2	
37		(9A.88.080)	D+
38	E	O & A (Prostitution) (9A.88.030)	E

1	B+	Indecent Liberties (9A.44.100)	C+
2	B+	Child Molestation 1 (9A.44.083)	C+
3	C+	Child Molestation 2 (9A.44.086)	C
4		Theft, Robbery, Extortion, and Forgery	
5	B	Theft 1 (9A.56.030)	C
6	C	Theft 2 (9A.56.040)	D
7	D	Theft 3 (9A.56.050)	E
8	B	Theft of Livestock (9A.56.080)	C
9	C	Forgery (9A.60.020)	D
10	A	Robbery 1 (9A.56.200)	B+
11	B+	Robbery 2 (9A.56.210)	C+
12	B+	Extortion 1 (9A.56.120)	C+
13	C+	Extortion 2 (9A.56.130)	D+
14	B	Possession of Stolen Property 1	
15		(9A.56.150)	C
16	C	Possession of Stolen Property 2	
17		(9A.56.160)	D
18	D	Possession of Stolen Property 3	
19		(9A.56.170)	E
20	C	Taking Motor Vehicle Without	
21		Owner's Permission (9A.56.070)	D
22		Motor Vehicle Related Crimes	
23	E	Driving Without a License	
24		(46.20.021)	E
25	C	Hit and Run - Injury	
26		(46.52.020(4))	D
27	D	Hit and Run-Attended	
28		(46.52.020(5))	E
29	E	Hit and Run-Unattended	
30		(46.52.010)	E
31	C	Vehicular Assault (46.61.522)	D
32	C	Attempting to Elude Pursuing	
33		Police Vehicle (46.61.024)	D
34	E	Reckless Driving (46.61.500)	E
35	D	Driving While Under the Influence	
36		((46.61.515)) (46.61.502 and	
37		<u>46.61.504</u>)	E
38	D	Vehicle Prowling (9A.52.100)	E

1	C	Taking Motor Vehicle Without	
2		Owner's Permission (9A.56.070)	D
3		Other	
4	B	Bomb Threat (9.61.160)	C
5	C	Escape 1 (9A.76.110)	C
6	C	Escape 2 (9A.76.120)	C
7	D	Escape 3 (9A.76.130)	E
8	C	Failure to Appear in Court	
9		(10.19.130)	D
10	E	Obscene, Harassing, Etc.,	
11		Phone Calls (9.61.230)	E
12	A	Other Offense Equivalent to an	
13		Adult Class A Felony	B+
14	B	Other Offense Equivalent to an	
15		Adult Class B Felony	C
16	C	Other Offense Equivalent to an	
17		Adult Class C Felony	D
18	D	Other Offense Equivalent to an	
19		Adult Gross Misdemeanor	E
20	E	Other Offense Equivalent to an	
21		Adult Misdemeanor	E
22	V	Violation of Order of Restitution,	
23		Community Supervision, or	
24		Confinement (13.40.200)	V

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

27 1st escape or attempted escape during 12-month period - 4 weeks
28 confinement

29 2nd escape or attempted escape during 12-month period - 8 weeks
30 confinement

31 3rd and subsequent escape or attempted escape during 12-month
32 period - 12 weeks confinement

33 if the court finds that a respondent has violated terms of an order,
34 it may impose a penalty of up to 30 days of confinement.

35 **SCHEDULE B**
36 **PRIOR OFFENSE INCREASE FACTOR**

1 For use with all CURRENT OFFENSES occurring on or after July 1,
 2 1989.

3 **TIME SPAN**

4	OFFENSE	0-12	13-24	25 Months
5	CATEGORY	Months	Months	or More
6			
7	A+	.9	.9	.9
8	A	.9	.8	.6
9	A-	.9	.8	.5
10	B+	.9	.7	.4
11	B	.9	.6	.3
12	C+	.6	.3	.2
13	C	.5	.2	.2
14	D+	.3	.2	.1
15	D	.2	.1	.1
16	E	.1	.1	.1

17 Prior history - Any offense in which a diversion agreement or counsel
 18 and release form was signed, or any offense which has been adjudicated
 19 by court to be correct prior to the commission of the current
 20 offense(s).

21 **SCHEDULE C**

22 **CURRENT OFFENSE POINTS**

23 For use with all CURRENT OFFENSES occurring on or after July 1,
 24 1989.

25 **AGE**

26	OFFENSE	12 &					
27	CATEGORY	Under	13	14	15	16	17
28						
29	A+	STANDARD RANGE 180-224 WEEKS					
30	A	250	300	350	375	375	375
31	A-	150	150	150	200	200	200
32	B+	110	110	120	130	140	150
33	B	45	45	50	50	57	57
34	C+	44	44	49	49	55	55
35	C	40	40	45	45	50	50
36	D+	16	18	20	22	24	26
37	D	14	16	18	20	22	24
38	E	4	4	4	6	8	10

1 **JUVENILE SENTENCING STANDARDS**

2 **SCHEDULE D-1**

3 This schedule may only be used for minor/first offenders. After the
4 determination is made that a youth is a minor/first offender, the court
5 has the discretion to select sentencing option A, B, or C.

6 **MINOR/FIRST OFFENDER**

7 **OPTION A**

8 **STANDARD RANGE**

		Community	Community	Service	
	Points	Supervision	Hours		Fine
9				Community	
10				Service	
11					
12
13	1-9	0-3 months	and/or 0-8		and/or 0-\$10
14	10-19	0-3 months	and/or 0-8		and/or 0-\$10
15	20-29	0-3 months	and/or 0-16		and/or 0-\$10
16	30-39	0-3 months	and/or 8-24		and/or 0-\$25
17	40-49	3-6 months	and/or 16-32		and/or 0-\$25
18	50-59	3-6 months	and/or 24-40		and/or 0-\$25
19	60-69	6-9 months	and/or 32-48		and/or 0-\$50
20	70-79	6-9 months	and/or 40-56		and/or 0-\$50
21	80-89	9-12 months	and/or 48-64		and/or 10-\$100
22	90-109	9-12 months	and/or 56-72		and/or 10-\$100

23 **OR**

24 **OPTION B**

25 **STATUTORY OPTION**

- 26 0-12 Months Community Supervision
- 27 0-150 Hours Community Service
- 28 0-100 Fine
- 29 Posting of a Probation Bond

30 A term of community supervision with a maximum of 150 hours, \$100.00
31 fine, and 12 months supervision.

32 **OR**

33 **OPTION C**

34 **MANIFEST INJUSTICE**

35 When a term of community supervision would effectuate a manifest
36 injustice, another disposition may be imposed. When a judge imposes a

1 sentence of confinement exceeding 30 days, the court shall sentence the
2 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
3 be used to determine the range.

4 **JUVENILE SENTENCING STANDARDS**
5 **SCHEDULE D-2**

6 This schedule may only be used for middle offenders. After the
7 determination is made that a youth is a middle offender, the court has
8 the discretion to select sentencing option A, B, or C.

9 **MIDDLE OFFENDER**

10 **OPTION A**
11 **STANDARD RANGE**

	Community	Community	Service		Confinement
	Points	Supervision	Hours	Fine	Days Weeks
12				
13					
14					
15					
16	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
17	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
18	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
19	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
20	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
21	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
22	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
23	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
24	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
25	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
26	110-129				8-12
27	130-149				13-16
28	150-199				21-28
29	200-249				30-40
30	250-299				52-65
31	300-374				80-100
32	375+				103-129

33 Middle offenders with (~~more than~~) 110 points or more do not have to
34 be committed. They may be assigned community supervision under option
35 B.

36 All A+ offenses 180-224 weeks

37 **OR**

38 **OPTION B**
39

1 **SERIOUS OFFENDER**

2 **OPTION A**

3 **STANDARD RANGE**

4	Points	Institution Time
5	
6	0-129	8-12 weeks
7	130-149	13-16 weeks
8	150-199	21-28 weeks
9	200-249	30-40 weeks
10	250-299	52-65 weeks
11	300-374	80-100 weeks
12	375+	103-129 weeks
13	All A+ Offenses	180-224 weeks

14 **OR**

15 **OPTION B**

16 **MANIFEST INJUSTICE**

17

18 A disposition outside the standard range shall be determined and shall
19 be comprised of confinement or community supervision including posting
20 a probation bond or a combination thereof. When a judge finds a
21 manifest injustice and imposes a sentence of confinement exceeding 30
22 days, the court shall sentence the juvenile to a maximum term, and the
23 provisions of RCW 13.40.030(2) shall be used to determine the range.

24 **Sec. 4.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to read
25 as follows:

26 (1) A juvenile may be taken into custody:

27 (a) Pursuant to a court order if a complaint is filed with the
28 court alleging, and the court finds probable cause to believe, that the
29 juvenile has committed an offense or has violated terms of a
30 disposition order or release order; or

31 (b) Without a court order, by a law enforcement officer if grounds
32 exist for the arrest of an adult in identical circumstances. Admission
33 to, and continued custody in, a court detention facility shall be
34 governed by subsection (2) of this section; or

1 (c) Pursuant to a court order that the juvenile be held as a
2 material witness; or

3 (d) Where the secretary or the secretary's designee has suspended
4 the parole of a juvenile offender.

5 (2) A juvenile may not be held in detention unless there is
6 probable cause to believe that:

7 (a) The juvenile has committed an offense or has violated the terms
8 of a disposition order; and

9 (i) The juvenile will likely fail to appear for further
10 proceedings; or

11 (ii) Detention is required to protect the juvenile from himself or
12 herself; or

13 (iii) The juvenile is a threat to community safety; or

14 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
15 interfere with the administration of justice; or

16 (v) The juvenile has committed a crime while another case was
17 pending; or

18 (b) The juvenile is a fugitive from justice; or

19 (c) The juvenile's parole has been suspended or modified; or

20 (d) The juvenile is a material witness.

21 (3) Upon a finding that members of the community have threatened
22 the health of a juvenile taken into custody, at the juvenile's request
23 the court may order continued detention pending further order of the
24 court.

25 (4) A juvenile detained under this section may be released upon
26 posting a probation bond set by the court. The juvenile's parent or
27 guardian may sign for the probation bond. A court authorizing such a
28 release shall issue an order containing a statement of conditions
29 imposed upon the juvenile and shall set the date of his or her next
30 court appearance. The court shall advise the juvenile of any
31 conditions specified in the order and may at any time amend such an
32 order in order to impose additional or different conditions of release
33 upon the juvenile or to return the juvenile to custody for failing to
34 conform to the conditions imposed. In addition to requiring the
35 juvenile to appear at the next court date, the court may condition the
36 probation bond on the juvenile's compliance with conditions of release.
37 The juvenile's parent or guardian may notify the court that the
38 juvenile has failed to conform to the conditions of release or the
39 provisions in the probation bond. If the parent notifies the court of

1 the juvenile's failure to comply with the probation bond, the court
2 shall notify the surety. As provided in the terms of the bond, the
3 surety shall provide notice to the court of the offender's
4 noncompliance. Failure to appear on the date scheduled by the court
5 pursuant to this section shall constitute the crime of bail jumping.

6 **Sec. 5.** RCW 13.40.050 and 1992 c 205 s 106 are each amended to
7 read as follows:

8 (1) When a juvenile taken into custody is held in detention:

9 (a) An information, a community supervision modification or
10 termination of diversion petition, or a parole modification petition
11 shall be filed within seventy-two hours, Saturdays, Sundays, and
12 holidays excluded, or the juvenile shall be released; and

13 (b) A detention hearing, a community supervision modification or
14 termination of diversion petition, or a parole modification petition
15 shall be held within seventy-two hours, Saturdays, Sundays, and
16 holidays excluded, from the time of filing the information or petition,
17 to determine whether continued detention is necessary under RCW
18 13.40.040.

19 (2) Notice of the detention hearing, stating the time, place, and
20 purpose of the hearing, and stating the right to counsel, shall be
21 given to the parent, guardian, or custodian if such person can be found
22 and shall also be given to the juvenile if over twelve years of age.

23 (3) At the commencement of the detention hearing, the court shall
24 advise the parties of their rights under this chapter and shall appoint
25 counsel as specified in this chapter.

26 (4) The court shall, based upon the allegations in the information,
27 determine whether the case is properly before it or whether the case
28 should be treated as a diversion case under RCW 13.40.080. If the case
29 is not properly before the court the juvenile shall be ordered
30 released.

31 (5) Notwithstanding a determination that the case is properly
32 before the court and that probable cause exists, a juvenile shall at
33 the detention hearing be ordered released on the juvenile's personal
34 recognizance pending further hearing unless the court finds detention
35 is necessary under RCW 13.40.040 as now or hereafter amended.

36 (6) If detention is not necessary under RCW 13.40.040, as now or
37 hereafter amended, the court shall impose the most appropriate of the

1 following conditions or, if necessary, any combination of the following
2 conditions:

3 (a) Place the juvenile in the custody of a designated person
4 agreeing to supervise such juvenile;

5 (b) Place restrictions on the travel of the juvenile during the
6 period of release;

7 (c) Require the juvenile to report regularly to and remain under
8 the supervision of the juvenile court;

9 (d) Impose any condition other than detention deemed reasonably
10 necessary to assure appearance as required; (~~or~~)

11 (e) Require that the juvenile return to detention during specified
12 hours; or

13 (f) Require the juvenile to post a probation bond set by the court
14 under terms and conditions as provided in RCW 13.40.040(4).

15 (7) If the parent, guardian, or custodian of the juvenile in
16 detention is available, the court shall consult with them prior to a
17 determination to further detain or release the juvenile or treat the
18 case as a diversion case under RCW 13.40.080.

19 **Sec. 6.** RCW 13.40.125 and 1994 1st sp.s. c 7 s 545 are each
20 amended to read as follows:

21 (1) Upon motion at least fourteen days before commencement of
22 trial, the juvenile court has the power, after consulting the
23 juvenile's custodial parent or parents or guardian and with the consent
24 of the juvenile, to continue the case for adjudication for a period not
25 to exceed one year from the date (~~of entry of the plea or finding of~~
26 ~~guilt~~) the motion is granted. The court may continue the case for an
27 additional one-year period for good cause.

28 (2) Any juvenile granted a deferral of adjudication under this
29 section shall be placed under community supervision. The court may
30 impose any conditions of supervision that it deems appropriate
31 including posting a probation bond. Payment of restitution, as
32 provided in RCW 13.40.190 shall also be a condition of community
33 supervision under this section.

34 (3) Upon full compliance with (~~such~~) conditions of supervision,
35 the court shall dismiss the case with prejudice.

36 (4) If the juvenile fails to comply with the terms of supervision,
37 the court shall enter an order of adjudication and proceed to
38 disposition. The juvenile's lack of compliance shall be determined by

1 the judge upon written motion by the prosecutor or the juvenile's
2 juvenile court community supervision counselor. A parent who signed
3 for a probation bond or deposited cash may notify the counselor if the
4 juvenile fails to comply with the bond or conditions of supervision.
5 The counselor shall notify the court and surety. A surety shall notify
6 the court of the juvenile's failure to comply with the probation bond.
7 The state shall bear the burden to prove by a preponderance of the
8 evidence that the juvenile has failed to comply with the terms of
9 community supervision.

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

12 (a) To a speedy trial and disposition;

13 (b) To call and confront witnesses; and

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

16 (6) A juvenile is not eligible for a deferred adjudication if:

17 (a) The juvenile's current offense is a sex or violent offense;

18 (b) The juvenile's criminal history includes any felony;

19 (c) The juvenile has a prior deferred adjudication; or

20 (d) The juvenile has had more than two diversions.

21 **Sec. 7.** RCW 13.40.160 and 1994 sp.s. c 7 s 523 are each amended to
22 read as follows:

23 (1) When the respondent is found to be a serious offender, the
24 court shall commit the offender to the department for the standard
25 range of disposition for the offense, as indicated in option A of
26 schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and
27 (6) of this section.

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

34 A disposition outside the standard range shall be determinate and
35 shall be comprised of confinement or community supervision, or a
36 combination thereof. When a judge finds a manifest injustice and
37 imposes a sentence of confinement exceeding thirty days, the court
38 shall sentence the juvenile to a maximum term, and the provisions of

1 RCW 13.40.030(2) shall be used to determine the range. A disposition
2 outside the standard range is appealable under RCW 13.40.230 by the
3 state or the respondent. A disposition within the standard range is
4 not appealable under RCW 13.40.230.

5 (2) Where the respondent is found to be a minor or first offender,
6 the court shall order that the respondent serve a term of community
7 supervision as indicated in option A or option B of schedule D-1, RCW
8 13.40.0357 except as provided in subsections (5) and (6) of this
9 section. If the court determines that a disposition of community
10 supervision would effectuate a manifest injustice the court may impose
11 another disposition under option C of schedule D-1, RCW 13.40.0357.
12 Except as provided in subsection (5) of this section, a disposition
13 other than a community supervision may be imposed only after the court
14 enters reasons upon which it bases its conclusions that imposition of
15 community supervision would effectuate a manifest injustice. When a
16 judge finds a manifest injustice and imposes a sentence of confinement
17 exceeding thirty days, the court shall sentence the juvenile to a
18 maximum term, and the provisions of RCW 13.40.030(2) shall be used to
19 determine the range. The court's finding of manifest injustice shall
20 be supported by clear and convincing evidence.

21 Except for disposition of community supervision or a disposition
22 imposed pursuant to subsection (5) of this section, a disposition may
23 be appealed as provided in RCW 13.40.230 by the state or the
24 respondent. A disposition of community supervision or a disposition
25 imposed pursuant to subsection (5) of this section may not be appealed
26 under RCW 13.40.230.

27 (3) Where a respondent is found to have committed an offense for
28 which the respondent declined to enter into a diversion agreement, the
29 court shall impose a term of community supervision limited to the
30 conditions allowed in a diversion agreement as provided in RCW
31 13.40.080(2).

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

33 (a) The court shall impose a determinate disposition within the
34 standard range(s) for such offense, as indicated in option A of
35 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and
36 (6) of this section(~~(:—PROVIDED, That)~~). If the standard range
37 includes a term of confinement exceeding thirty days, commitment shall
38 be to the department for the standard range of confinement; or

1 (b) If the middle offender has less than 110 points, the court
2 shall impose a ((disposition under (a) of this subsection, which shall
3 be suspended, and shall impose a)) determinate disposition of community
4 supervision and/or up to thirty days confinement, as indicated in
5 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement
6 has been imposed, the court shall state either aggravating or
7 mitigating factors as set forth in RCW 13.40.150. If the middle
8 offender has 110 points or more, the court may impose a disposition
9 under option A and may suspend the disposition on the condition that
10 the offender serve up to thirty days of confinement and follow all
11 conditions of community supervision. If the offender violates any
12 condition of the disposition including conditions of a probation bond,
13 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
14 the suspension and order execution of the ((sentence)) disposition.
15 The court shall give credit for any confinement time previously served
16 if that confinement was for the offense for which the suspension is
17 being revoked.

18 (c) Only if the court concludes, and enters reasons for its
19 conclusions, that disposition as provided in subsection (4)(a) or (b)
20 of this section would effectuate a manifest injustice, the court shall
21 sentence the juvenile to a maximum term, and the provisions of RCW
22 13.40.030(2) shall be used to determine the range. The court's finding
23 of manifest injustice shall be supported by clear and convincing
24 evidence.

25 (d) A disposition pursuant to subsection (4)(c) of this section is
26 appealable under RCW 13.40.230 by the state or the respondent. A
27 disposition pursuant to subsection (4) (a) or (b) of this section is
28 not appealable under RCW 13.40.230.

29 (5) When a serious, middle, or minor first offender is found to
30 have committed a sex offense, other than a sex offense that is also a
31 serious violent offense as defined by RCW 9.94A.030, and has no history
32 of a prior sex offense, the court, on its own motion or the motion of
33 the state or the respondent, may order an examination to determine
34 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 living
12 conditions, lifestyle requirements, and monitoring by family members,
13 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 to
31 two years. As a condition of the suspended disposition, the court may
32 impose the conditions of community supervision and other conditions,
33 including up to thirty days of confinement and requirements that the
34 offender do any one or more of the following:

35 (b)(i) Devote time to a specific education, employment, or
36 occupation;

37 (ii) Undergo available outpatient sex offender treatment for up to
38 two years, or inpatient sex offender treatment not to exceed the
39 standard range of confinement for that offense. A community mental

1 health center may not be used for such treatment unless it has an
2 appropriate program designed for sex offender treatment. The
3 respondent shall not change sex offender treatment providers or
4 treatment conditions without first notifying the prosecutor, the
5 probation counselor, and the court, and shall not change providers
6 without court approval after a hearing if the prosecutor or probation
7 counselor object to the change;

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

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

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

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

17 (vii) Make restitution to the victim for the cost of any counseling
18 reasonably related to the offense; or

19 (viii) Comply with the conditions of any court-ordered probation
20 bond.

21 The sex offender treatment provider shall submit quarterly reports
22 on the respondent's progress in treatment to the court and the parties.
23 The reports shall reference the treatment plan and include at a minimum
24 the following: Dates of attendance, respondent's compliance with
25 requirements, treatment activities, the respondent's relative progress
26 in treatment, and any other material specified by the court at the time
27 of the disposition.

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

30 Except as provided in this subsection (5), after July 1, 1991,
31 examinations and treatment ordered pursuant to this subsection shall
32 only be conducted by sex offender treatment providers certified by the
33 department of health pursuant to chapter 18.155 RCW. A sex offender
34 therapist who examines or treats a juvenile sex offender pursuant to
35 this subsection does not have to be certified by the department of
36 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
37 offender has already moved to another state or plans to move to another
38 state for reasons other than circumventing the certification
39 requirements; (B) no certified providers are available for treatment

1 within a reasonable geographical distance of the offender's home; and
2 (C) the evaluation and treatment plan comply with this subsection (5)
3 and the rules adopted by the department of health.

4 If the offender violates any condition of the disposition or the
5 court finds that the respondent is failing to make satisfactory
6 progress in treatment, the court may revoke the suspension and order
7 execution of the disposition or the court may impose a penalty of up to
8 thirty days' confinement for violating conditions of the disposition.
9 The court may order both execution of the disposition and up to thirty
10 days' confinement for the violation of the conditions of the
11 disposition. The court shall give credit for any confinement time
12 previously served if that confinement was for the offense for which the
13 suspension is being revoked.

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

19 (6) RCW 13.40.193 shall govern the disposition of any juvenile
20 adjudicated of possessing a firearm in violation of RCW 9.41.040(1)(e)
21 or any crime in which a special finding is entered that the juvenile
22 was armed with a firearm.

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

27 (8) Except as provided for in subsection (4)(b) or (5) of this
28 section or RCW 13.40.125, the court shall not suspend or defer the
29 imposition or the execution of the disposition.

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

33 **Sec. 8.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to read
34 as follows:

35 (1) When a respondent fails to comply with an order of restitution,
36 community supervision, penalty assessments, or confinement of less than
37 thirty days, the court upon motion of the prosecutor or its own motion,
38 may modify the order after a hearing on the violation.

1 (2) The hearing shall afford the respondent the same due process of
2 law as would be afforded an adult probationer. The court may issue a
3 summons or a warrant to compel the respondent's appearance. The state
4 shall have the burden of proving by a preponderance of the evidence the
5 fact of the violation. The respondent shall have the burden of showing
6 that the violation was not a willful refusal to comply with the terms
7 of the order. If a respondent has failed to pay a fine, penalty
8 assessments, or restitution or to perform community service hours, as
9 required by the court, it shall be the respondent's burden to show that
10 he or she did not have the means and could not reasonably have acquired
11 the means to pay the fine, penalty assessments, or restitution or
12 perform community service.

13 (3)(a) If the court finds that a respondent has willfully violated
14 the terms of an order pursuant to subsections (1) and (2) of this
15 section, it may impose a penalty of up to thirty days' confinement.
16 Penalties for multiple violations occurring prior to the hearing shall
17 not be aggregated to exceed thirty days' confinement. Regardless of
18 the number of times a respondent is brought to court for violations of
19 the terms of a single disposition order, the combined total number of
20 days spent by the respondent in detention shall never exceed the
21 maximum term to which an adult could be sentenced for the underlying
22 offense.

23 (b) If the violation of the terms of the order under (a) of this
24 subsection is failure to pay fines, penalty assessments, complete
25 community service, or make restitution, the term of confinement imposed
26 under (a) of this subsection shall be assessed at a rate of one day of
27 confinement for each twenty-five dollars or eight hours owed.

28 (4) If a respondent has been ordered to pay a fine or monetary
29 penalty and due to a change of circumstance cannot reasonably comply
30 with the order, the court, upon motion of the respondent, may order
31 that the unpaid fine or monetary penalty be converted to community
32 service. The number of hours of community service in lieu of a
33 monetary penalty or fine shall be converted at the rate of the
34 prevailing state minimum wage per hour. The monetary penalties or
35 fines collected shall be deposited in the county general fund. A
36 failure to comply with an order under this subsection shall be deemed
37 a failure to comply with an order of community supervision and may be
38 proceeded against as provided in this section.

1 (5) When a respondent has willfully violated the terms of a
2 probation bond, the court may modify, revoke, or retain the probation
3 bond as provided in section 1 of this act.

4 NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW
5 to read as follows:

6 When a juvenile charged with an offense posts a probation bond or
7 deposits cash or posts other collateral in lieu of a bond, ten dollars
8 of the total amount required to be posted as bail shall be paid in cash
9 as a nonrefundable bail fee. The bail fee shall be distributed to the
10 county for costs associated with implementing chapter . . . , Laws of
11 1995 (this act).

Passed the House March 8, 1995.

Passed the Senate April 12, 1995.

Approved by the Governor May 16, 1995.

Filed in Office of Secretary of State May 16, 1995.