
ENGROSSED SUBSTITUTE SENATE BILL 5903

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Hargrove, Stevens and Carlson)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to juvenile offender sentences; amending RCW
2 13.40.160; reenacting and amending RCW 13.40.0357 and 13.40.165; adding
3 new sections to chapter 13.40 RCW; creating new sections; and providing
4 an expiration date.

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

6 **Sec. 1.** RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are
7 each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

| JUVENILE DISPOSITION OFFENSE CATEGORY | DESCRIPTION (RCW CITATION) | JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION |
|--|----------------------------|--|
| | | |
| Arson and Malicious Mischief | | |
| A | Arson 1 (9A.48.020) | B+ |

| | | | |
|----|----|--|----|
| 1 | B | Arson 2 (9A.48.030) | C |
| 2 | C | Reckless Burning 1 (9A.48.040) | D |
| 3 | D | Reckless Burning 2 (9A.48.050) | E |
| 4 | B | Malicious Mischief 1 (9A.48.070) | C |
| 5 | C | Malicious Mischief 2 (9A.48.080) | D |
| 6 | D | Malicious Mischief 3 (<\$50 is E class) | |
| 7 | | (9A.48.090) | E |
| 8 | E | Tampering with Fire Alarm Apparatus | |
| 9 | | (9.40.100) | E |
| 10 | A | Possession of Incendiary Device (9.40.120) | B+ |
| 11 | | Assault and Other Crimes Involving | |
| 12 | | Physical Harm | |
| 13 | A | Assault 1 (9A.36.011) | B+ |
| 14 | B+ | Assault 2 (9A.36.021) | C+ |
| 15 | C+ | Assault 3 (9A.36.031) | D+ |
| 16 | D+ | Assault 4 (9A.36.041) | E |
| 17 | B+ | Drive-By Shooting (9A.36.045) | C+ |
| 18 | D+ | Reckless Endangerment (9A.36.050) | E |
| 19 | C+ | Promoting Suicide Attempt (9A.36.060) | D+ |
| 20 | D+ | Coercion (9A.36.070) | E |
| 21 | C+ | Custodial Assault (9A.36.100) | D+ |
| 22 | | Burglary and Trespass | |
| 23 | B+ | Burglary 1 (9A.52.020) | C+ |
| 24 | B | Residential Burglary (9A.52.025) | C |
| 25 | B | Burglary 2 (9A.52.030) | C |
| 26 | D | Burglary Tools (Possession of) (9A.52.060) | E |
| 27 | D | Criminal Trespass 1 (9A.52.070) | E |
| 28 | E | Criminal Trespass 2 (9A.52.080) | E |
| 29 | C | Vehicle Prowling 1 (9A.52.095) | D |
| 30 | D | Vehicle Prowling 2 (9A.52.100) | E |
| 31 | | Drugs | |
| 32 | E | Possession/Consumption of Alcohol | |
| 33 | | (66.44.270) | E |
| 34 | C | Illegally Obtaining Legend Drug | |
| 35 | | (69.41.020) | D |

| | | | |
|----|----|---|----|
| 1 | C+ | Sale, Delivery, Possession of Legend Drug | |
| 2 | | with Intent to Sell (69.41.030) | D+ |
| 3 | E | Possession of Legend Drug (69.41.030) | E |
| 4 | B+ | Violation of Uniform Controlled | |
| 5 | | Substances Act - Narcotic, | |
| 6 | | Methamphetamine, or Flunitrazepam Sale | |
| 7 | | (69.50.401(a)(1) (i) or (ii)) | B+ |
| 8 | C | Violation of Uniform Controlled | |
| 9 | | Substances Act - Nonnarcotic Sale | |
| 10 | | (69.50.401(a)(1)(iii)) | C |
| 11 | E | Possession of Marihuana <40 grams | |
| 12 | | (69.50.401(e)) | E |
| 13 | C | Fraudulently Obtaining Controlled | |
| 14 | | Substance (69.50.403) | C |
| 15 | C+ | Sale of Controlled Substance for Profit | |
| 16 | | (69.50.410) | C+ |
| 17 | E | Unlawful Inhalation (9.47A.020) | E |
| 18 | B | Violation of Uniform Controlled | |
| 19 | | Substances Act - Narcotic, | |
| 20 | | Methamphetamine, or Flunitrazepam | |
| 21 | | Counterfeit Substances (69.50.401(b)(1) (i) | |
| 22 | | or (ii)) | B |
| 23 | C | Violation of Uniform Controlled | |
| 24 | | Substances Act - Nonnarcotic Counterfeit | |
| 25 | | Substances (69.50.401(b)(1) (iii), (iv), (v)) | C |
| 26 | C | Violation of Uniform Controlled | |
| 27 | | Substances Act - Possession of a Controlled | |
| 28 | | Substance (69.50.401(d)) | C |
| 29 | C | Violation of Uniform Controlled | |
| 30 | | Substances Act - Possession of a Controlled | |
| 31 | | Substance (69.50.401(c)) | C |
| 32 | | Firearms and Weapons | |
| 33 | B | Theft of Firearm (9A.56.300) | C |
| 34 | B | Possession of Stolen Firearm (9A.56.310) | C |
| 35 | E | Carrying Loaded Pistol Without Permit | |
| 36 | | (9.41.050) | E |

| | | | |
|----|----|---|----|
| 1 | C | Possession of Firearms by Minor (<18) | |
| 2 | | (9.41.040(1)(b)(iii)) | C |
| 3 | D+ | Possession of Dangerous Weapon | |
| 4 | | (9.41.250) | E |
| 5 | D | Intimidating Another Person by use of | |
| 6 | | Weapon (9.41.270) | E |
| 7 | | Homicide | |
| 8 | A+ | Murder 1 (9A.32.030) | A |
| 9 | A+ | Murder 2 (9A.32.050) | B+ |
| 10 | B+ | Manslaughter 1 (9A.32.060) | C+ |
| 11 | C+ | Manslaughter 2 (9A.32.070) | D+ |
| 12 | B+ | Vehicular Homicide (46.61.520) | C+ |
| 13 | | Kidnapping | |
| 14 | A | Kidnap 1 (9A.40.020) | B+ |
| 15 | B+ | Kidnap 2 (9A.40.030) | C+ |
| 16 | C+ | Unlawful Imprisonment (9A.40.040) | D+ |
| 17 | | Obstructing Governmental Operation | |
| 18 | D | Obstructing a Law Enforcement Officer | |
| 19 | | (9A.76.020) | E |
| 20 | E | Resisting Arrest (9A.76.040) | E |
| 21 | B | Introducing Contraband 1 (9A.76.140) | C |
| 22 | C | Introducing Contraband 2 (9A.76.150) | D |
| 23 | E | Introducing Contraband 3 (9A.76.160) | E |
| 24 | B+ | Intimidating a Public Servant (9A.76.180) | C+ |
| 25 | B+ | Intimidating a Witness (9A.72.110) | C+ |
| 26 | | Public Disturbance | |
| 27 | C+ | Riot with Weapon (9A.84.010) | D+ |
| 28 | D+ | Riot Without Weapon (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+ |
| 36 | B+ | Rape of a Child 2 (9A.44.076) | C+ |

| | | | |
|----|----|---|----|
| 1 | B | Incest 1 (9A.64.020(1)) | C |
| 2 | C | Incest 2 (9A.64.020(2)) | D |
| 3 | D+ | Indecent Exposure (Victim <14) | |
| 4 | | (9A.88.010) | E |
| 5 | E | Indecent Exposure (Victim 14 or over) | |
| 6 | | (9A.88.010) | E |
| 7 | B+ | Promoting Prostitution 1 (9A.88.070) | C+ |
| 8 | C+ | Promoting Prostitution 2 (9A.88.080) | D+ |
| 9 | E | O & A (Prostitution) (9A.88.030) | E |
| 10 | B+ | Indecent Liberties (9A.44.100) | C+ |
| 11 | A- | Child Molestation 1 (9A.44.083) | B+ |
| 12 | B | Child Molestation 2 (9A.44.086) | C+ |
| 13 | | Theft, Robbery, Extortion, and Forgery | |
| 14 | B | Theft 1 (9A.56.030) | C |
| 15 | C | Theft 2 (9A.56.040) | D |
| 16 | D | Theft 3 (9A.56.050) | E |
| 17 | B | Theft of Livestock (9A.56.080) | C |
| 18 | C | Forgery (9A.60.020) | D |
| 19 | A | Robbery 1 (9A.56.200) | B+ |
| 20 | B+ | Robbery 2 (9A.56.210) | C+ |
| 21 | B+ | Extortion 1 (9A.56.120) | C+ |
| 22 | C+ | Extortion 2 (9A.56.130) | D+ |
| 23 | C | Identity Theft 1 (9.35.020(2)(a)) | D |
| 24 | D | Identity Theft 2 (9.35.020(2)(b)) | E |
| 25 | D | Improperly Obtaining Financial | |
| 26 | | Information (9.35.010) | E |
| 27 | B | Possession of Stolen Property 1 | |
| 28 | | (9A.56.150) | C |
| 29 | C | Possession of Stolen Property 2 | |
| 30 | | (9A.56.160) | D |
| 31 | D | Possession of Stolen Property 3 | |
| 32 | | (9A.56.170) | E |
| 33 | C | Taking Motor Vehicle Without Permission | |
| 34 | | 1 and 2 (9A.56.070 (1) and (2)) | D |
| 35 | | Motor Vehicle Related Crimes | |
| 36 | E | Driving Without a License (46.20.005) | E |
| 37 | B+ | Hit and Run - Death (46.52.020(4)(a)) | C+ |

| | | | |
|----|---|--|----|
| 1 | C | Hit and Run - Injury (46.52.020(4)(b)) | D |
| 2 | D | Hit and Run-Attended (46.52.020(5)) | E |
| 3 | E | Hit and Run-Unattended (46.52.010) | E |
| 4 | C | Vehicle Assault (46.61.522) | D |
| 5 | C | Attempting to Elude Pursuing Police | |
| 6 | | Vehicle (46.61.024) | D |
| 7 | E | Reckless Driving (46.61.500) | E |
| 8 | D | Driving While Under the Influence | |
| 9 | | (46.61.502 and 46.61.504) | E |
| 10 | | Other | |
| 11 | B | Bomb Threat (9.61.160) | C |
| 12 | C | Escape 1 ¹ (9A.76.110) | C |
| 13 | C | Escape 2 ¹ (9A.76.120) | C |
| 14 | D | Escape 3 (9A.76.130) | E |
| 15 | E | Obscene, Harassing, Etc., Phone Calls | |
| 16 | | (9.61.230) | E |
| 17 | A | Other Offense Equivalent to an Adult Class | |
| 18 | | A Felony | B+ |
| 19 | B | Other Offense Equivalent to an Adult Class | |
| 20 | | B Felony | C |
| 21 | C | Other Offense Equivalent to an Adult Class | |
| 22 | | C Felony | D |
| 23 | D | Other Offense Equivalent to an Adult | |
| 24 | | Gross Misdemeanor | E |
| 25 | E | Other Offense Equivalent to an Adult | |
| 26 | | Misdemeanor | E |
| 27 | V | Violation of Order of Restitution, | |
| 28 | | Community Supervision, or Confinement | |
| 29 | | (13.40.200) ² | V |

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

32 1st escape or attempted escape during 12-month period - 4 weeks
33 confinement

34 2nd escape or attempted escape during 12-month period - 8 weeks
35 confinement

36 3rd and subsequent escape or attempted escape during 12-month
37 period - 12 weeks confinement

1 ²If the court finds that a respondent has violated terms of an order,
 2 it may impose a penalty of up to 30 days of confinement.

3 **JUVENILE SENTENCING STANDARDS**

4 This schedule must be used for juvenile offenders. The court may
 5 select sentencing option A, B, (~~C~~) C, or D.

6 **OPTION A**
 7 **JUVENILE OFFENDER SENTENCING GRID**
 8 **STANDARD RANGE**

9 A+ 180 WEEKS TO AGE 21 YEARS

10 A 103 WEEKS TO 129 WEEKS

11

12

| | | | | |
|-------|-----------|-------|--------|---------|
| 13 A- | 15-36 | 52-65 | 80-100 | 103-129 |
| 14 | WEEKS | WEEKS | WEEKS | WEEKS |
| 15 | EXCEPT | | | |
| 16 | 30-40 | | | |
| 17 | WEEKS FOR | | | |
| 18 | 15-17 | | | |
| 19 | YEAR OLDS | | | |

20

| | | | | | |
|------------|----|-------|-------|--------|---------|
| 21 Current | B+ | 15-36 | 52-65 | 80-100 | 103-129 |
| 22 Offense | | WEEKS | WEEKS | WEEKS | WEEKS |

23 Category

| | | | | |
|------|----------------|--|-------------|-------|
| 24 B | LOCAL | | | 52-65 |
| 25 | SANCTIONS (LS) | | 15-36 WEEKS | WEEKS |

26

| | | | | |
|-------|----|--|-------------|--|
| 27 C+ | LS | | | |
| 28 | | | 15-36 WEEKS | |

29

| | | | | |
|------|----|------------------|--|-------------|
| 30 C | LS | | | 15-36 WEEKS |
| 31 | | Local Sanctions: | | |
| 32 | | 0 to 30 Days | | |

33

| | | | | |
|-------|----|--------------------------------------|--|--|
| 34 D+ | LS | 0 to 12 Months Community Supervision | | |
| 35 | | 0 to 150 Hours Community Restitution | | |

36 D LS \$0 to \$500 Fine

37 E LS

38

| | | | | | |
|----|---|---|---|---|---------|
| 39 | 0 | 1 | 2 | 3 | 4 |
| 40 | | | | | or more |

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

1 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
2 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW
3 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential
4 burglary (RCW 9A.52.025), burglary in the second degree (RCW
5 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW
6 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a
7 witness (RCW 9A.72.110), violation of the uniform controlled substances
8 act (RCW 69.50.401(a)(1) (i) or (ii)), or manslaughter 2 (RCW
9 9A.32.070), when the offense includes infliction of bodily harm upon
10 another or when during the commission or immediate withdrawal from the
11 offense the respondent was armed with a deadly weapon;

12 (c) Ordered to serve a disposition for a firearm violation under
13 RCW 13.40.193; or

14 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

15 **OR**

16 **OPTION C CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

17 If the juvenile offender is subject to a standard range disposition
18 of local sanctions or 15 to 36 weeks of confinement and has not
19 committed an A- or B+ offense, the court may impose a disposition
20 under RCW 13.40.160(4) and 13.40.165.

21 **OR**

22 **OPTION ((C)) D MANIFEST INJUSTICE**

23 If the court determines that a disposition under option A ~~((A))~~, B, or
24 C would effectuate a manifest injustice, the court shall impose a
25 disposition outside the standard range under RCW 13.40.160(2).

26 **Sec. 2.** RCW 13.40.160 and 2002 c 175 s 22 are each amended to read
27 as follows:

28 (1) The standard range disposition for a juvenile adjudicated of an
29 offense is determined according to RCW 13.40.0357.

30 (a) When the court sentences an offender to a local sanction as
31 provided in RCW 13.40.0357 option A, the court shall impose a
32 determinate disposition within the standard ranges, except as provided
33 in subsections (2), (3), ~~((and))~~ (4), (5), and (6) of this section.
34 The disposition may be comprised of one or more local sanctions.

1 (b) When the court sentences an offender to a standard range as
2 provided in RCW 13.40.0357 option A that includes a term of confinement
3 exceeding thirty days, commitment shall be to the department for the
4 standard range of confinement, except as provided in subsections (2),
5 (3), ~~((and))~~ (4), (5), and (6) of this section.

6 (2) If the court concludes, and enters reasons for its conclusion,
7 that disposition within the standard range would effectuate a manifest
8 injustice the court shall impose a disposition outside the standard
9 range, as indicated in option ~~((E))~~ D of RCW 13.40.0357. The court's
10 finding of manifest injustice shall be supported by clear and
11 convincing evidence.

12 A disposition outside the standard range shall be determinate and
13 shall be comprised of confinement or community supervision, or a
14 combination thereof. When a judge finds a manifest injustice and
15 imposes a sentence of confinement exceeding thirty days, the court
16 shall sentence the juvenile to a maximum term, and the provisions of
17 RCW 13.40.030(2) shall be used to determine the range. A disposition
18 outside the standard range is appealable under RCW 13.40.230 by the
19 state or the respondent. A disposition within the standard range is
20 not appealable under RCW 13.40.230.

21 (3) When a juvenile offender is found to have committed a sex
22 offense, other than a sex offense that is also a serious violent
23 offense as defined by RCW 9.94A.030, and has no history of a prior sex
24 offense, the court, on its own motion or the motion of the state or the
25 respondent, may order an examination to determine whether the
26 respondent is amenable to treatment.

27 The report of the examination shall include at a minimum the
28 following: The respondent's version of the facts and the official
29 version of the facts, the respondent's offense history, an assessment
30 of problems in addition to alleged deviant behaviors, the respondent's
31 social, educational, and employment situation, and other evaluation
32 measures used. The report shall set forth the sources of the
33 evaluator's information.

34 The examiner shall assess and report regarding the respondent's
35 amenability to treatment and relative risk to the community. A
36 proposed treatment plan shall be provided and shall include, at a
37 minimum:

1 (a)(i) Frequency and type of contact between the offender and
2 therapist;

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

5 (iii) Monitoring plans, including any requirements regarding living
6 conditions, lifestyle requirements, and monitoring by family members,
7 legal guardians, or others;

8 (iv) Anticipated length of treatment; and

9 (v) Recommended crime-related prohibitions.

10 The court on its own motion may order, or on a motion by the state
11 shall order, a second examination regarding the offender's amenability
12 to treatment. The evaluator shall be selected by the party making the
13 motion. The defendant shall pay the cost of any second examination
14 ordered unless the court finds the defendant to be indigent in which
15 case the state shall pay the cost.

16 After receipt of reports of the examination, the court shall then
17 consider whether the offender and the community will benefit from use
18 of this special sex offender disposition alternative and consider the
19 victim's opinion whether the offender should receive a treatment
20 disposition under this section. If the court determines that this
21 special sex offender disposition alternative is appropriate, then the
22 court shall impose a determinate disposition within the standard range
23 for the offense, or if the court concludes, and enters reasons for its
24 conclusions, that such disposition would cause a manifest injustice,
25 the court shall impose a disposition under option ((C)) D, and the
26 court may suspend the execution of the disposition and place the
27 offender on community supervision for at least two years. As a
28 condition of the suspended disposition, the court may impose the
29 conditions of community supervision and other conditions, including up
30 to thirty days of confinement and requirements that the offender do any
31 one or more of the following:

32 (b)(i) Devote time to a specific education, employment, or
33 occupation;

34 (ii) Undergo available outpatient sex offender treatment for up to
35 two years, or inpatient sex offender treatment not to exceed the
36 standard range of confinement for that offense. A community mental
37 health center may not be used for such treatment unless it has an
38 appropriate program designed for sex offender treatment. The

1 respondent shall not change sex offender treatment providers or
2 treatment conditions without first notifying the prosecutor, the
3 probation counselor, and the court, and shall not change providers
4 without court approval after a hearing if the prosecutor or probation
5 counselor object to the change;

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

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

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

13 (vi) Pay all court-ordered legal financial obligations, perform
14 community restitution, or any combination thereof;

15 (vii) Make restitution to the victim for the cost of any counseling
16 reasonably related to the offense;

17 (viii) Comply with the conditions of any court-ordered probation
18 bond; or

19 (ix) The court shall order that the offender may not attend the
20 public or approved private elementary, middle, or high school attended
21 by the victim or the victim's siblings. The parents or legal guardians
22 of the offender are responsible for transportation or other costs
23 associated with the offender's change of school that would otherwise be
24 paid by the school district. The court shall send notice of the
25 disposition and restriction on attending the same school as the victim
26 or victim's siblings to the public or approved private school the
27 juvenile will attend, if known, or if unknown, to the approved private
28 schools and the public school district board of directors of the
29 district in which the juvenile resides or intends to reside. This
30 notice must be sent at the earliest possible date but not later than
31 ten calendar days after entry of the disposition.

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

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

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

16 If the offender violates any condition of the disposition or the
17 court finds that the respondent is failing to make satisfactory
18 progress in treatment, the court may revoke the suspension and order
19 execution of the disposition or the court may impose a penalty of up to
20 thirty days' confinement for violating conditions of the disposition.
21 The court may order both execution of the disposition and up to thirty
22 days' confinement for the violation of the conditions of the
23 disposition. The court shall give credit for any confinement time
24 previously served if that confinement was for the offense for which the
25 suspension is being revoked.

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

31 A disposition entered under this subsection (3) is not appealable
32 under RCW 13.40.230.

33 (4) If the juvenile offender is subject to a standard range
34 disposition of local sanctions or 15 to 36 weeks of confinement and has
35 not committed an A- or B+ offense, the court may impose the disposition
36 alternative under RCW 13.40.165.

37 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of

1 confinement, the court may impose the disposition alternative under
2 section 3 of this act.

3 (6) When the offender is subject to a standard range commitment of
4 15 to 36 weeks and is ineligible for a suspended disposition
5 alternative, a manifest injustice disposition below the standard range,
6 special sex offender disposition alternative, chemical dependency
7 disposition alternative, or mental health disposition alternative, the
8 court may impose the disposition alternative under section 4 of this
9 act.

10 (7) RCW 13.40.193 shall govern the disposition of any juvenile
11 adjudicated of possessing a firearm in violation of RCW
12 9.41.040(1)(b)(iii) or any crime in which a special finding is entered
13 that the juvenile was armed with a firearm.

14 ~~((+6))~~ (8) Whenever a juvenile offender is entitled to credit for
15 time spent in detention prior to a dispositional order, the
16 dispositional order shall specifically state the number of days of
17 credit for time served.

18 ~~((+7))~~ (9) Except as provided under subsection (3) ~~((+8))~~ (4),
19 (5), or (6) of this section or RCW 13.40.127, the court shall not
20 suspend or defer the imposition or the execution of the disposition.

21 ~~((+8))~~ (10) In no case shall the term of confinement imposed by
22 the court at disposition exceed that to which an adult could be
23 subjected for the same offense.

24 NEW SECTION. Sec. 3. A new section is added to chapter 13.40 RCW
25 to read as follows:

26 (1) When an offender is subject to a standard range commitment of
27 15 to 65 weeks, the court may:

- 28 (a) Impose the standard range; or
- 29 (b) Suspend the standard range disposition on condition that the
30 offender complies with the terms of this mental health disposition
31 alternative.

32 (2) The court may impose this disposition alternative when the
33 court finds the following:

- 34 (a) The offender has a current diagnosis, consistent with the
35 American psychiatry association diagnostic and statistical manual of
36 mental disorders, of axis I psychiatric disorder, excluding youth that

1 are diagnosed as solely having a conduct disorder, oppositional defiant
2 disorder, substance abuse disorder, paraphilia, or pedophilia;

3 (b) An appropriate treatment option is available in the local
4 community;

5 (c) The plan for the offender identifies and addresses requirements
6 for successful participation and completion of the treatment
7 intervention program including: Incentives and graduated sanctions
8 designed specifically for amenable youth, including the use of
9 detention, detoxication, and in-patient or outpatient substance abuse
10 treatment and psychiatric hospitalization, and structured community
11 support consisting of mental health providers, probation, educational
12 and vocational advocates, child welfare services, and family and
13 community support. For any mental health treatment ordered for an
14 offender under this section, the treatment option selected shall be
15 chosen from among programs which have been successful in addressing
16 mental health needs of juveniles and successful in mental health
17 treatment of juveniles. A list of programs which meet these criteria
18 shall be agreed upon by: The Washington association of juvenile court
19 administrators, the juvenile rehabilitation administration of the
20 department of social and health services, a representative of the
21 division of public behavioral health and justice policy at the
22 University of Washington, and the Washington institute for public
23 policy. The list of programs shall be created not later than July 1,
24 2003. The group shall provide the list to all superior courts, its own
25 membership, the legislature, and the governor. The group shall meet
26 annually and revise the list as appropriate; and

27 (d) The offender, offender's family, and community will benefit
28 from use of the mental health disposition alternative.

29 (3) The court on its own motion may order, or on motion by either
30 party, shall order a comprehensive mental health evaluation to
31 determine if the offender has a designated mental disorder. The court
32 may also order a chemical dependency evaluation to determine if the
33 offender also has a co-occurring chemical dependency disorder. The
34 evaluation shall include at a minimum the following: The offender's
35 version of the facts and the official version of the facts, the
36 offender's offense, an assessment of the offender's mental health and
37 drug-alcohol problems and previous treatment attempts, and the

1 offender's social, criminal, educational, and employment history and
2 living situation.

3 (4) The evaluator shall determine if the offender is amenable to
4 research-based treatment. A proposed case management and treatment
5 plan shall include at a minimum:

- 6 (a) The availability of treatment;
- 7 (b) Anticipated length of treatment;
- 8 (c) Whether one or more treatment interventions are proposed and
9 the anticipated sequence of those treatment interventions;
- 10 (d) The education plan;
- 11 (e) The residential plan; and
- 12 (f) The monitoring plan.

13 (5) The court on its own motion may order, or on motion by either
14 party, shall order a second mental health or chemical dependency
15 evaluation. The party making the motion shall select the evaluator.
16 The requesting party shall pay the cost of any examination ordered
17 under this subsection and subsection (3) of this section unless the
18 court finds the offender is indigent and no third party insurance
19 coverage is available, in which case the state shall pay the cost.

20 (6) Upon receipt of the assessments, evaluations, and reports the
21 court shall consider whether the offender and the community will
22 benefit from use of the mental health disposition alternative. The
23 court shall consider the victim's opinion whether the offender should
24 receive the option.

25 (7) If the court determines that the mental health disposition
26 alternative is appropriate, the court shall impose a standard range
27 disposition of not more than 65 weeks, suspend execution of the
28 disposition, and place the offender on community supervision up to one
29 year and impose one or more other local sanctions. Confinement in a
30 secure county detention facility, other than county group homes,
31 inpatient psychiatric treatment facilities, and substance abuse
32 programs, shall be limited to thirty days. As a condition of a
33 suspended disposition, the court shall require the offender to
34 participate in the recommended treatment interventions.

35 (8) The treatment providers shall submit monthly reports to the
36 court and parties on the offender's progress in treatment. The report
37 shall reference the treatment plan and include at a minimum the
38 following: Dates of attendance, offender's compliance with

1 requirements, treatment activities, medication management, the
2 offender's relative progress in treatment, and any other material
3 specified by the court at the time of the disposition.

4 (9) If the offender fails to comply with the suspended disposition,
5 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
6 the suspended disposition and order the disposition's execution.

7 (10) An offender is ineligible for the mental health disposition
8 option under this section if the offender is adjudicated of a sex or
9 violent offense as defined in RCW 9.94A.030.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.40 RCW
11 to read as follows:

12 (1) When the offender is subject to a standard range commitment of
13 15 to 36 weeks and is ineligible for a suspended disposition
14 alternative, a manifest injustice disposition below the standard range,
15 special sex offender disposition alternative, chemical dependency
16 disposition alternative, or mental health disposition alternative, the
17 court may impose a community commitment disposition alternative and:

18 (a) Retain juvenile court jurisdiction over the youth;

19 (b) Confine the youth in a county detention facility:

20 (i) For the standard range; or

21 (ii) After finding a manifest injustice, a determinate disposition
22 up to 52 weeks; and

23 (c) Impose a term of postrelease community supervision for up to
24 one year.

25 If the youth receives a standard range disposition, the court shall
26 set the release date within the standard range. The court shall
27 determine the release date prior to expiration of sixty percent of the
28 juvenile's minimum term of confinement.

29 (2) The court may impose this community commitment disposition
30 alternative if the court finds the following:

31 (a) Placement in a local detention facility in close proximity to
32 the youth's family or local support systems will facilitate a smoother
33 reintegration to the youth's family and community;

34 (b) Placement in the local detention facility will allow the youth
35 to benefit from locally provided family intervention programs and other
36 research-based treatment programs, school, employment, and drug and
37 alcohol or mental health counseling; or

1 (c) Confinement in a facility operated by the department would
2 result in a negative disruption to local services, school, or
3 employment or impede or delay developing those services and support
4 systems in the community.

5 (3) The court shall consider the youth's offense, prior criminal
6 history, security classification, risk level, and treatment needs and
7 history when determining whether the youth is appropriate for the
8 community commitment disposition alternative. If the court finds that
9 a community commitment disposition alternative is appropriate, the
10 court shall order the youth into secure detention while the details of
11 the reintegration program are developed.

12 (4) Upon approval of the treatment and community reintegration
13 plan, the court may order the youth to serve the term of confinement in
14 one or more of the following placements or combination of placements:
15 Secure detention, an alternative to secure detention such as electronic
16 home monitoring, county group care, day or evening reporting, or home
17 detention. The court may order the youth to serve time in detention on
18 weekends or intermittently. The court shall set periodic reviews to
19 review the youth's progress in the program. At least fifty percent of
20 the term of confinement shall be served in secure detention.

21 (5) If the youth violates the conditions of the community
22 commitment program, the court may impose sanctions under RCW 13.40.200
23 or modify the terms of the reintegration plan and order the youth to
24 serve all or a portion of the remaining confinement term in secure
25 detention.

26 (6) A county may enter into interlocal agreements with other
27 counties to develop joint community commitment programs or to allow one
28 county to send a youth appropriate for this alternative to another
29 county that has a community commitment program.

30 (7) Implementation of this alternative is subject to available
31 state funding for the costs of the community commitment program,
32 including costs of detention and community supervision.

33 **Sec. 5.** RCW 13.40.165 and 2002 c 175 s 23 and 2002 c 42 s 1 are
34 each reenacted and amended to read as follows:

35 (1) The purpose of this disposition alternative is to ensure that
36 successful treatment options to reduce recidivism are available to
37 eligible youth, pursuant to RCW 70.96A.520. The court must consider

1 eligibility for the chemical dependency disposition alternative when a
2 juvenile offender is subject to a standard range disposition of local
3 sanctions or 15 to 36 weeks of confinement and has not committed an A-
4 or B+ offense, other than a first time B+ offense under chapter 69.50
5 RCW. The court, on its own motion or the motion of the state or the
6 respondent if the evidence shows that the offender may be chemically
7 dependent or substance abusing, may order an examination by a chemical
8 dependency counselor from a chemical dependency treatment facility
9 approved under chapter 70.96A RCW to determine if the youth is
10 chemically dependent or substance abusing. The offender shall pay the
11 cost of any examination ordered under this subsection unless the court
12 finds that the offender is indigent and no third party insurance
13 coverage is available, in which case the state shall pay the cost.

14 (2) The report of the examination shall include at a minimum the
15 following: The respondent's version of the facts and the official
16 version of the facts, the respondent's offense history, an assessment
17 of drug-alcohol problems and previous treatment attempts, the
18 respondent's social, educational, and employment situation, and other
19 evaluation measures used. The report shall set forth the sources of
20 the examiner's information.

21 (3) The examiner shall assess and report regarding the respondent's
22 relative risk to the community. A proposed treatment plan shall be
23 provided and shall include, at a minimum:

- 24 (a) Whether inpatient and/or outpatient treatment is recommended;
25 (b) Availability of appropriate treatment;
26 (c) Monitoring plans, including any requirements regarding living
27 conditions, lifestyle requirements, and monitoring by family members,
28 legal guardians, or others;
29 (d) Anticipated length of treatment; and
30 (e) Recommended crime-related prohibitions.

31 (4) The court on its own motion may order, or on a motion by the
32 state or the respondent shall order, a second examination. The
33 evaluator shall be selected by the party making the motion. The
34 requesting party shall pay the cost of any examination ordered under
35 this subsection unless the requesting party is the offender and the
36 court finds that the offender is indigent and no third party insurance
37 coverage is available, in which case the state shall pay the cost.

1 (5)(a) After receipt of reports of the examination, the court shall
2 then consider whether the offender and the community will benefit from
3 use of this chemical dependency disposition alternative and consider
4 the victim's opinion whether the offender should receive a treatment
5 disposition under this section.

6 (b) If the court determines that this chemical dependency
7 disposition alternative is appropriate, then the court shall impose the
8 standard range for the offense, or if the court concludes, and enters
9 reasons for its conclusion, that such disposition would effectuate a
10 manifest injustice, the court shall impose a disposition above the
11 standard range as indicated in option ((E)) D of RCW 13.40.0357 if the
12 disposition is an increase from the standard range and the confinement
13 of the offender does not exceed a maximum of fifty-two weeks, suspend
14 execution of the disposition, and place the offender on community
15 supervision for up to one year. As a condition of the suspended
16 disposition, the court shall require the offender to undergo available
17 outpatient drug/alcohol treatment and/or inpatient drug/alcohol
18 treatment. For purposes of this section, inpatient treatment may not
19 exceed ninety days. As a condition of the suspended disposition, the
20 court may impose conditions of community supervision and other
21 sanctions, including up to thirty days of confinement, one hundred
22 fifty hours of community restitution, and payment of legal financial
23 obligations and restitution.

24 (6) The drug/alcohol treatment provider shall submit monthly
25 reports on the respondent's progress in treatment to the court and the
26 parties. The reports shall reference the treatment plan and include at
27 a minimum the following: Dates of attendance, respondent's compliance
28 with requirements, treatment activities, the respondent's relative
29 progress in treatment, and any other material specified by the court at
30 the time of the disposition.

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

33 If the offender violates any condition of the disposition or the
34 court finds that the respondent is failing to make satisfactory
35 progress in treatment, the court may impose sanctions pursuant to RCW
36 13.40.200 or revoke the suspension and order execution of the
37 disposition. The court shall give credit for any confinement time

1 previously served if that confinement was for the offense for which the
2 suspension is being revoked.

3 (7) For purposes of this section, "victim" means any person who has
4 sustained emotional, psychological, physical, or financial injury to
5 person or property as a direct result of the offense charged.

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

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

13 (10) A disposition under this section is not appealable under RCW
14 13.40.230.

15 NEW SECTION. **Sec. 6.** Because model adherence and competent
16 delivery of research-based intervention programs is critical for
17 reducing recidivism, the Washington state institute for public policy
18 shall develop adherence and outcome standards for measuring
19 effectiveness of treatment programs referred to in this act. The
20 standards shall be developed and presented to the governor and
21 legislature no later than January 1, 2004. The standards shall include
22 methods for measuring competent delivery of interventions as well as
23 success factors following treatment. The standards shall include, but
24 not be limited to hiring, training and retaining qualified providers,
25 managing and overseeing the delivery of treatment services, and
26 developing quality assurance measures. The department shall utilize
27 these standards to assess program effectiveness. The courts shall also
28 utilize these standards in determining their continued use of these
29 alternatives. The courts shall not continue to use programs that do
30 not comply with these standards.

31 NEW SECTION. **Sec. 7.** (1) A task force is created for the purpose
32 of examining the coordination of information, education services, and
33 matters of public safety when juvenile offenders are placed into public
34 schools, following their conviction.

35 (2) The task force shall be chaired by the superintendent of public
36 instruction and include a representative from the juvenile

1 rehabilitation administration of the department of social and health
2 services, the state board of education, associations which represent
3 school teachers, administrators, and school boards, superior court
4 judges, the Washington association of juvenile court administrators,
5 prosecuting attorneys, the governor, attorneys whose practice includes
6 criminal defense work for juvenile defendants, three groups whose
7 primary purpose is the delivery of services to families and children,
8 and law enforcement. The three groups who deliver services shall be
9 selected by the superintendent of public instruction.

10 (3) The task force shall identify specific policies and statutory,
11 administrative, and practice processes and barriers that may operate to
12 impede: (a) The identification and delivery of appropriate and
13 coordinated services to juvenile offenders who are placed in, or
14 returned to public schools following conviction of an offense; and (b)
15 transmittal of information regarding juvenile offenders who are
16 returned to, or placed in, public schools following conviction of an
17 offense. The task force shall recommend specific statutory and
18 administrative changes as it finds appropriate to eliminate or reduce
19 the barriers identified as a result of this subsection (3).

20 (4) The task force shall report its findings and recommendations to
21 the governor, the legislature, and the agencies represented on the task
22 force not later than December 1, 2003.

23 NEW SECTION. **Sec. 8.** Sections 6 and 7 of this act expire December
24 31, 2003.

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