

SENATE BILL 5903

State of Washington 58th Legislature 2003 Regular Session

By Senators Hargrove, Stevens and Carlson

Read first time 02/19/2003. Referred to Committee on Children & Family Services & Corrections.

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; and creating a new section.

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

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

DESCRIPTION AND OFFENSE CATEGORY

		JUVENILE DISPOSITION
JUVENILE		CATEGORY FOR
DISPOSITION		ATTEMPT, BAILJUMP,
OFFENSE		CONSPIRACY, OR
CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
.....		
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D

1	D	Reckless Burning 2 (9A.48.050)	E
2	B	Malicious Mischief 1 (9A.48.070)	C
3	C	Malicious Mischief 2 (9A.48.080)	D
4	D	Malicious Mischief 3 (<\$50 is E class)	
5		(9A.48.090)	E
6	E	Tampering with Fire Alarm Apparatus	
7		(9.40.100)	E
8	A	Possession of Incendiary Device (9.40.120)	B+
9		<b>Assault and Other Crimes Involving</b>	
10		<b>Physical Harm</b>	
11	A	Assault 1 (9A.36.011)	B+
12	B+	Assault 2 (9A.36.021)	C+
13	C+	Assault 3 (9A.36.031)	D+
14	D+	Assault 4 (9A.36.041)	E
15	B+	Drive-By Shooting (9A.36.045)	C+
16	D+	Reckless Endangerment (9A.36.050)	E
17	C+	Promoting Suicide Attempt (9A.36.060)	D+
18	D+	Coercion (9A.36.070)	E
19	C+	Custodial Assault (9A.36.100)	D+
20		<b>Burglary and Trespass</b>	
21	B+	Burglary 1 (9A.52.020)	C+
22	B	Residential Burglary (9A.52.025)	C
23	B	Burglary 2 (9A.52.030)	C
24	D	Burglary Tools (Possession of) (9A.52.060)	E
25	D	Criminal Trespass 1 (9A.52.070)	E
26	E	Criminal Trespass 2 (9A.52.080)	E
27	C	Vehicle Prowling 1 (9A.52.095)	D
28	D	Vehicle Prowling 2 (9A.52.100)	E
29		<b>Drugs</b>	
30	E	Possession/Consumption of Alcohol	
31		(66.44.270)	E
32	C	Illegally Obtaining Legend Drug	
33		(69.41.020)	D
34	C+	Sale, Delivery, Possession of Legend Drug	
35		with Intent to Sell (69.41.030)	D+
36	E	Possession of Legend Drug (69.41.030)	E

1	B+	Violation of Uniform Controlled	
2		Substances Act - Narcotic,	
3		Methamphetamine, or Flunitrazepam Sale	
4		(69.50.401(a)(1) (i) or (ii))	B+
5	C	Violation of Uniform Controlled	
6		Substances Act - Nonnarcotic Sale	
7		(69.50.401(a)(1)(iii))	C
8	E	Possession of Marihuana <40 grams	
9		(69.50.401(e))	E
10	C	Fraudulently Obtaining Controlled	
11		Substance (69.50.403)	C
12	C+	Sale of Controlled Substance for Profit	
13		(69.50.410)	C+
14	E	Unlawful Inhalation (9.47A.020)	E
15	B	Violation of Uniform Controlled	
16		Substances Act - Narcotic,	
17		Methamphetamine, or Flunitrazepam	
18		Counterfeit Substances (69.50.401(b)(1) (i)	
19		or (ii))	B
20	C	Violation of Uniform Controlled	
21		Substances Act - Nonnarcotic Counterfeit	
22		Substances (69.50.401(b)(1) (iii), (iv), (v))	C
23	C	Violation of Uniform Controlled	
24		Substances Act - Possession of a Controlled	
25		Substance (69.50.401(d))	C
26	C	Violation of Uniform Controlled	
27		Substances Act - Possession of a Controlled	
28		Substance (69.50.401(c))	C
29		<b>Firearms and Weapons</b>	
30	B	Theft of Firearm (9A.56.300)	C
31	B	Possession of Stolen Firearm (9A.56.310)	C
32	E	Carrying Loaded Pistol Without Permit	
33		(9.41.050)	E
34	C	Possession of Firearms by Minor (<18)	
35		(9.41.040(1)(b)(iii))	C
36	D+	Possession of Dangerous Weapon	
37		(9.41.250)	E

1	D	Intimidating Another Person by use of	
2		Weapon (9A.41.270)	E
3		<b>Homicide</b>	
4	A+	Murder 1 (9A.32.030)	A
5	A+	Murder 2 (9A.32.050)	B+
6	B+	Manslaughter 1 (9A.32.060)	C+
7	C+	Manslaughter 2 (9A.32.070)	D+
8	B+	Vehicular Homicide (46.61.520)	C+
9		<b>Kidnapping</b>	
10	A	Kidnap 1 (9A.40.020)	B+
11	B+	Kidnap 2 (9A.40.030)	C+
12	C+	Unlawful Imprisonment (9A.40.040)	D+
13		<b>Obstructing Governmental Operation</b>	
14	D	Obstructing a Law Enforcement Officer	
15		(9A.76.020)	E
16	E	Resisting Arrest (9A.76.040)	E
17	B	Introducing Contraband 1 (9A.76.140)	C
18	C	Introducing Contraband 2 (9A.76.150)	D
19	E	Introducing Contraband 3 (9A.76.160)	E
20	B+	Intimidating a Public Servant (9A.76.180)	C+
21	B+	Intimidating a Witness (9A.72.110)	C+
22		<b>Public Disturbance</b>	
23	C+	Riot with Weapon (9A.84.010)	D+
24	D+	Riot Without Weapon (9A.84.010)	E
25	E	Failure to Disperse (9A.84.020)	E
26	E	Disorderly Conduct (9A.84.030)	E
27		<b>Sex Crimes</b>	
28	A	Rape 1 (9A.44.040)	B+
29	A-	Rape 2 (9A.44.050)	B+
30	C+	Rape 3 (9A.44.060)	D+
31	A-	Rape of a Child 1 (9A.44.073)	B+
32	B+	Rape of a Child 2 (9A.44.076)	C+
33	B	Incest 1 (9A.64.020(1))	C
34	C	Incest 2 (9A.64.020(2))	D
35	D+	Indecent Exposure (Victim <14)	
36		(9A.88.010)	E

1	E	Indecent Exposure (Victim 14 or over)	
2		(9A.88.010)	E
3	B+	Promoting Prostitution 1 (9A.88.070)	C+
4	C+	Promoting Prostitution 2 (9A.88.080)	D+
5	E	O & A (Prostitution) (9A.88.030)	E
6	B+	Indecent Liberties (9A.44.100)	C+
7	A-	Child Molestation 1 (9A.44.083)	B+
8	B	Child Molestation 2 (9A.44.086)	C+
9		<b>Theft, Robbery, Extortion, and Forgery</b>	
10	B	Theft 1 (9A.56.030)	C
11	C	Theft 2 (9A.56.040)	D
12	D	Theft 3 (9A.56.050)	E
13	B	Theft of Livestock (9A.56.080)	C
14	C	Forgery (9A.60.020)	D
15	A	Robbery 1 (9A.56.200)	B+
16	B+	Robbery 2 (9A.56.210)	C+
17	B+	Extortion 1 (9A.56.120)	C+
18	C+	Extortion 2 (9A.56.130)	D+
19	C	Identity Theft 1 (9.35.020(2)(a))	D
20	D	Identity Theft 2 (9.35.020(2)(b))	E
21	D	Improperly Obtaining Financial	
22		Information (9.35.010)	E
23	B	Possession of Stolen Property 1	
24		(9A.56.150)	C
25	C	Possession of Stolen Property 2	
26		(9A.56.160)	D
27	D	Possession of Stolen Property 3	
28		(9A.56.170)	E
29	C	Taking Motor Vehicle Without Permission	
30		1 and 2 (9A.56.070 (1) and (2))	D
31		<b>Motor Vehicle Related Crimes</b>	
32	E	Driving Without a License (46.20.005)	E
33	B+	Hit and Run - Death (46.52.020(4)(a))	C+
34	C	Hit and Run - Injury (46.52.020(4)(b))	D
35	D	Hit and Run-Attended (46.52.020(5))	E
36	E	Hit and Run-Unattended (46.52.010)	E
37	C	Vehicular Assault (46.61.522)	D

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

26 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
27 and the standard range is established as follows:

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

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

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

34 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
35 it may impose a penalty of up to 30 days of confinement.

36 **JUVENILE SENTENCING STANDARDS**

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

3  
 4 **OPTION A**  
 5 **JUVENILE OFFENDER SENTENCING GRID**  
 6 **STANDARD RANGE**

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	A+	180 WEEKS TO AGE 21 YEARS			
	A	103 WEEKS TO 129 WEEKS			
	A-	15-36	52-65	80-100	103-129
		WEEKS	WEEKS	WEEKS	WEEKS
		EXCEPT			
		30-40			
		WEEKS FOR			
		15-17			
		YEAR OLDS			

	Current Offense Category	B+	15-36	52-65	80-100	103-129
			WEEKS	WEEKS	WEEKS	WEEKS
		B	LOCAL SANCTIONS (LS)	15-36 WEEKS		52-65 WEEKS
		C+	LS		15-36 WEEKS	
		C	LS			15-36 WEEKS
			Local Sanctions:			
			0 to 30 Days			
		D+	LS	0 to 12 Months Community Supervision		
				0 to 150 Hours Community Restitution		
		D	LS	\$0 to \$500 Fine		
		E	LS			
			0	1	2	3
						4
						or more
			PRIOR ADJUDICATIONS			

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

41 (1) The vertical axis of the grid is the current offense category.

1 The current offense category is determined by the offense of  
2 adjudication.

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

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

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

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

16 OR

17 **OPTION B**

18 **SUSPENDED DISPOSITION ALTERNATIVE**

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

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

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

- 28 (a) Adjudicated of an A+ offense;
- 29 (b) Fifteen years of age or older and is adjudicated of one or more  
30 of the following offenses:

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

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

- 34 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
35 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
36 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
37 burglary (RCW 9A.52.025), or burglary in the second degree (RCW



1 9A.52.030), when the offense includes infliction of bodily harm upon  
2 another or when during the commission or immediate withdrawal from the  
3 offense the respondent was armed with a deadly weapon;

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

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

7 **OR**

8 **OPTION C**

9 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

14 **OR**

15 **OPTION ((C)) D**

16 **MANIFEST INJUSTICE**

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

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

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

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

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

34 (2) If the court concludes, and enters reasons for its conclusion,  
35 that disposition within the standard range would effectuate a manifest

1 injustice the court shall impose a disposition outside the standard  
2 range, as indicated in option ((E)) D of RCW 13.40.0357. The court's  
3 finding of manifest injustice shall be supported by clear and  
4 convincing evidence.

5 A disposition outside the standard range shall be determinate and  
6 shall be comprised of confinement or community supervision, or a  
7 combination thereof. When a judge finds a manifest injustice and  
8 imposes a sentence of confinement exceeding thirty days, the court  
9 shall sentence the juvenile to a maximum term, and the provisions of  
10 RCW 13.40.030(2) shall be used to determine the range. A disposition  
11 outside the standard range is appealable under RCW 13.40.230 by the  
12 state or the respondent. A disposition within the standard range is  
13 not appealable under RCW 13.40.230.

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

20 The report of the examination shall include at a minimum the  
21 following: The respondent's version of the facts and the official  
22 version of the facts, the respondent's offense history, an assessment  
23 of problems in addition to alleged deviant behaviors, the respondent's  
24 social, educational, and employment situation, and other evaluation  
25 measures used. The report shall set forth the sources of the  
26 evaluator's information.

27 The examiner shall assess and report regarding the respondent's  
28 amenability to treatment and relative risk to the community. A  
29 proposed treatment plan shall be provided and shall include, at a  
30 minimum:

31 (a)(i) Frequency and type of contact between the offender and  
32 therapist;

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

35 (iii) Monitoring plans, including any requirements regarding living  
36 conditions, lifestyle requirements, and monitoring by family members,  
37 legal guardians, or others;

38 (iv) Anticipated length of treatment; and

1 (v) Recommended crime-related prohibitions.

2 The court on its own motion may order, or on a motion by the state  
3 shall order, a second examination regarding the offender's amenability  
4 to treatment. The evaluator shall be selected by the party making the  
5 motion. The defendant shall pay the cost of any second examination  
6 ordered unless the court finds the defendant to be indigent in which  
7 case the state shall pay the cost.

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

24 (b)(i) Devote time to a specific education, employment, or  
25 occupation;

26 (ii) Undergo available outpatient sex offender treatment for up to  
27 two years, or inpatient sex offender treatment not to exceed the  
28 standard range of confinement for that offense. A community mental  
29 health center may not be used for such treatment unless it has an  
30 appropriate program designed for sex offender treatment. The  
31 respondent shall not change sex offender treatment providers or  
32 treatment conditions without first notifying the prosecutor, the  
33 probation counselor, and the court, and shall not change providers  
34 without court approval after a hearing if the prosecutor or probation  
35 counselor object to the change;

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

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

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

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

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

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

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

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

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

33 Except as provided in this subsection (3), after July 1, 1991,  
34 examinations and treatment ordered pursuant to this subsection shall  
35 only be conducted by sex offender treatment providers certified by the  
36 department of health pursuant to chapter 18.155 RCW. A sex offender  
37 therapist who examines or treats a juvenile sex offender pursuant to  
38 this subsection does not have to be certified by the department of

1 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
2 offender has already moved to another state or plans to move to another  
3 state for reasons other than circumventing the certification  
4 requirements; (B) no certified providers are available for treatment  
5 within a reasonable geographical distance of the offender's home; and  
6 (C) the evaluation and treatment plan comply with this subsection (3)  
7 and the rules adopted by the department of health.

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

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

23 A disposition entered under this subsection (3) is not appealable  
24 under RCW 13.40.230.

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

29 (5) If a juvenile is subject to a standard range disposition of  
30 local sanctions or 52 to 65 weeks of confinement or less, the court may  
31 impose the disposition alternative under section 3 of this act.

32 (6) When the offender is subject to a standard range commitment of  
33 52 to 65 weeks or less and is ineligible for a suspended disposition  
34 alternative, a manifest injustice disposition below the standard range,  
35 special sex offender disposition alternative, chemical dependency  
36 disposition alternative, or mental health disposition alternative, the  
37 court may impose the disposition alternative under section 4 of this  
38 act.

1       (7) RCW 13.40.193 shall govern the disposition of any juvenile  
2 adjudicated of possessing a firearm in violation of RCW  
3 9.41.040(1)(b)(iii) or any crime in which a special finding is entered  
4 that the juvenile was armed with a firearm.

5       (~~(6)~~) (8) Whenever a juvenile offender is entitled to credit for  
6 time spent in detention prior to a dispositional order, the  
7 dispositional order shall specifically state the number of days of  
8 credit for time served.

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

12       (~~(8)~~) (10) In no case shall the term of confinement imposed by  
13 the court at disposition exceed that to which an adult could be  
14 subjected for the same offense.

15       NEW SECTION.   **Sec. 3.** A new section is added to chapter 13.40 RCW  
16 to read as follows:

17       (1) When an offender is subject to a local sanction or a standard  
18 range disposition of 52 to 65 weeks or less, the court may:

19       (a) Impose the standard range; or

20       (b)(i) After finding a manifest injustice, impose a determinate  
21 disposition of not more than 52 weeks; and

22       (ii) Suspend the standard range or manifest injustice disposition  
23 on condition that the offender complies with the terms of this mental  
24 health disposition alternative.

25       (2) The court may impose this disposition alternative when the  
26 court finds the following:

27       (a) The offender has a current diagnosis, consistent with the  
28 American psychiatry association diagnostic and statistical manual of  
29 mental disorders IV, of axis I or II psychiatric disorder, excluding  
30 youth that are diagnosed as solely having a conduct disorder,  
31 oppositional defiant disorder, paraphilia, or pedophilia;

32       (b) An appropriate treatment option is available in the local  
33 community;

34       (c) The plan for the offender identifies and addresses requirements  
35 for successful participation and completion of the treatment  
36 intervention program including: Incentives and graduated sanctions  
37 designed specifically for amenable youth, including the use of

1 detention, detoxication, and in-patient or outpatient substance abuse  
2 treatment and psychiatric hospitalization, and structured community  
3 support consisting of mental health providers, probation, educational  
4 and vocational advocates, child welfare services, and family and  
5 community support; and

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

8 (3) The court on its own motion may order, or on motion by the  
9 state, shall order a comprehensive mental health evaluation to  
10 determine if the offender has a designated mental disorder. The court  
11 may also order a chemical dependency evaluation to determine if the  
12 offender also has a co-occurring chemical dependency disorder. The  
13 evaluation shall include at a minimum the following: The offender's  
14 version of the facts and the official version of the facts, the  
15 offender's offense, an assessment of the offender's mental health and  
16 drug-alcohol problems and previous treatment attempts, and the  
17 offender's social, criminal, educational, and employment history and  
18 living situation.

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

- 22 (a) The availability of treatment;
- 23 (b) Anticipated length of treatment;
- 24 (c) Whether one or more treatment interventions are proposed and  
25 the anticipated sequence of those treatment interventions;
- 26 (d) The residential plan; and
- 27 (e) The monitoring plan.

28 (5) The court on its own motion may order, or on motion by the  
29 state, shall order a second mental health or chemical dependency  
30 evaluation. The party making the motion shall select the evaluator.  
31 The requesting party shall pay the cost of any examination ordered  
32 under this subsection and subsection (3) of this section unless the  
33 court finds the offender is indigent and no third party insurance  
34 coverage is available, in which case the state shall pay the cost.

35 (6) Upon receipt of the assessments, evaluations, and reports the  
36 court shall consider whether the offender and the community will  
37 benefit from use of the mental health disposition alternative. The

1 court shall consider the victim's opinion whether the offender should  
2 receive the option.

3 (7) If the court determines that the mental health disposition  
4 alternative is appropriate, the court shall impose the standard range  
5 or a manifest injustice disposition of not more than 52 weeks, suspend  
6 execution of the disposition, and place the offender on community  
7 supervision up to one year and impose one or more other local  
8 sanctions. Confinement in a secure county detention facility, other  
9 than county group homes and substance abuse programs, shall be limited  
10 to thirty days. As a condition of a suspended disposition, the court  
11 shall require the offender to participate in the recommended treatment  
12 interventions.

13 (8) The treatment providers shall submit monthly reports to the  
14 court and parties on the offender's progress in treatment. The report  
15 shall reference the treatment plan and include at a minimum the  
16 following: Dates of attendance, offender's compliance with  
17 requirements, treatment activities, medication management, the  
18 offender's relative progress in treatment, and any other material  
19 specified by the court at the time of the disposition.

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

23 (10) An offender is ineligible for the suspended disposition option  
24 under this section if the offender is adjudicated of a sex or violent  
25 offense as defined in RCW 9.94A.030.

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

28 (1) When the offender is subject to a standard range commitment of  
29 52 to 65 weeks or less and is ineligible for a suspended disposition  
30 alternative, a manifest injustice disposition below the standard range,  
31 special sex offender disposition alternative, chemical dependency  
32 disposition alternative, or mental health disposition alternative, the  
33 court may impose a community commitment disposition alternative and:

- 34 (a) Retain juvenile court jurisdiction over the youth;
- 35 (b) Confine the youth in a county detention facility:
  - 36 (i) For the standard range; or



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

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

5 If the youth receives a standard range disposition, the court shall  
6 set the release date within the standard range. The court shall  
7 determine the release date prior to expiration of sixty percent of the  
8 juvenile's minimum term of confinement.

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

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

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

18 (c) Confinement in a facility operated by the department would  
19 result in a negative disruption to local services, school, or  
20 employment or impede or delay developing those services and support  
21 systems in the community.

22 (3) The court shall consider the youth's offense, prior criminal  
23 history, security classification, risk level, and treatment needs and  
24 history when determining whether the youth is appropriate for the  
25 community commitment disposition alternative. If the court finds that  
26 a community commitment disposition alternative is appropriate, the  
27 court shall order the youth into secure detention while the details of  
28 the reintegration program are developed.

29 (4) Upon approval of the treatment and community reintegration  
30 plan, the court may order the youth to serve the term of confinement in  
31 one or more of the following placements or combination of placements:  
32 Secure detention, an alternative to secure detention such as electronic  
33 home monitoring, county group care, day or evening reporting, or home  
34 detention. The court may order the youth to serve time in detention on  
35 weekends or intermittently. The court shall set periodic reviews to  
36 review the youth's progress in the program.

37 (5) If the youth violates the conditions of the community  
38 commitment program, the court may impose sanctions under RCW 13.40.200

1 or modify the terms of the reintegration plan and order the youth to  
2 serve all or a portion of the remaining confinement term in secure  
3 detention.

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

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

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

13 (1) The purpose of this disposition alternative is to ensure that  
14 successful treatment options to reduce recidivism are available to  
15 eligible youth, pursuant to RCW 70.96A.520. The court must consider  
16 eligibility for the chemical dependency disposition alternative when a  
17 juvenile offender is subject to a standard range disposition of local  
18 sanctions or 15 to 36 weeks of confinement and has not committed an A-  
19 or B+ offense, other than a first time B+ offense under chapter 69.50  
20 RCW. The court, on its own motion or the motion of the state or the  
21 respondent if the evidence shows that the offender may be chemically  
22 dependent or substance abusing, may order an examination by a chemical  
23 dependency counselor from a chemical dependency treatment facility  
24 approved under chapter 70.96A RCW to determine if the youth is  
25 chemically dependent or substance abusing. The offender shall pay the  
26 cost of any examination ordered under this subsection unless the court  
27 finds that the offender is indigent and no third party insurance  
28 coverage is available, in which case the state shall pay the cost.

29 (2) The report of the examination shall include at a minimum the  
30 following: The respondent's version of the facts and the official  
31 version of the facts, the respondent's offense history, an assessment  
32 of drug-alcohol problems and previous treatment attempts, the  
33 respondent's social, educational, and employment situation, and other  
34 evaluation measures used. The report shall set forth the sources of  
35 the examiner's information.

36 (3) The examiner shall assess and report regarding the respondent's

1 relative risk to the community. A proposed treatment plan shall be  
2 provided and shall include, at a minimum:

3 (a) Whether inpatient and/or outpatient treatment is recommended;

4 (b) Availability of appropriate treatment;

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

8 (d) Anticipated length of treatment; and

9 (e) Recommended crime-related prohibitions.

10 (4) The court on its own motion may order, or on a motion by the  
11 state or the respondent shall order, a second examination. The  
12 evaluator shall be selected by the party making the motion. The  
13 requesting party shall pay the cost of any examination ordered under  
14 this subsection unless the requesting party is the offender and the  
15 court finds that the offender is indigent and no third party insurance  
16 coverage is available, in which case the state shall pay the cost.

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

22 (b) If the court determines that this chemical dependency  
23 disposition alternative is appropriate, then the court shall impose the  
24 standard range for the offense, or if the court concludes, and enters  
25 reasons for its conclusion, that such disposition would effectuate a  
26 manifest injustice, the court shall impose a disposition above the  
27 standard range as indicated in option ((E)) D of RCW 13.40.0357 if the  
28 disposition is an increase from the standard range and the confinement  
29 of the offender does not exceed a maximum of fifty-two weeks, suspend  
30 execution of the disposition, and place the offender on community  
31 supervision for up to one year. As a condition of the suspended  
32 disposition, the court shall require the offender to undergo available  
33 outpatient drug/alcohol treatment and/or inpatient drug/alcohol  
34 treatment. For purposes of this section, inpatient treatment may not  
35 exceed ninety days. As a condition of the suspended disposition, the  
36 court may impose conditions of community supervision and other  
37 sanctions, including up to thirty days of confinement, one hundred

1 fifty hours of community restitution, and payment of legal financial  
2 obligations and restitution.

3 (6) The drug/alcohol treatment provider shall submit monthly  
4 reports on the respondent's progress in treatment to the court and the  
5 parties. The reports shall reference the treatment plan and include at  
6 a minimum the following: Dates of attendance, respondent's compliance  
7 with requirements, treatment activities, the respondent's relative  
8 progress in treatment, and any other material specified by the court at  
9 the time of the disposition.

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

12 If the offender violates any condition of the disposition or the  
13 court finds that the respondent is failing to make satisfactory  
14 progress in treatment, the court may impose sanctions pursuant to RCW  
15 13.40.200 or revoke the suspension and order execution of the  
16 disposition. The court shall give credit for any confinement time  
17 previously served if that confinement was for the offense for which the  
18 suspension is being revoked.

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

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

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

29 (10) A disposition under this section is not appealable under RCW  
30 13.40.230.

31 NEW SECTION. **Sec. 6.** The Washington state institute for public  
32 policy shall develop standards for measuring effectiveness of treatment  
33 programs under the mental health disposition alternative. The  
34 standards shall be developed and presented to the governor and  
35 legislature not later than January 1, 2004. The standards shall  
36 include methods for measuring success factors following treatment. The  
37 standards shall include, but not be limited to, continued use of

1 alcohol or controlled substances, arrests, violations of terms of  
2 community supervision, and convictions for subsequent offenses. These  
3 standards shall be utilized by the court in determining the continued  
4 use of this alternative and the success of treatment providers and  
5 programs.

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