

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 6472**

Chapter 120, Laws of 2004

58th Legislature  
2004 Regular Session

CRIME VICTIMS--JUVENILE OFFENDERS

EFFECTIVE DATE: 7/1/04

Passed by the Senate March 10, 2004  
YEAS 46 NAYS 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Passed by the House March 3, 2004  
YEAS 96 NAYS 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

CERTIFICATE

I, Milton H. Doumit, Jr.,  
Secretary of the Senate of the  
State of Washington, do hereby  
certify that the attached is  
**ENGROSSED SUBSTITUTE SENATE BILL  
6472** as passed by the Senate and  
the House of Representatives on  
the dates hereon set forth.

MILTON H. DOUMIT JR.

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**Secretary**

Approved March 24, 2004.

FILED

March 24, 2004 - 3:11 p.m.

GARY F. LOCKE

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**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 6472**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

**State of Washington                      58th Legislature                      2004 Regular Session**

**By** Senate Committee on Children & Family Services & Corrections  
(originally sponsored by Senators Hargrove, McAuliffe, Esser, Regala,  
Stevens and Kohl-Welles; by request of Department of Community,  
Trade, and Economic Development)

READ FIRST TIME 02/09/04.

1            AN ACT Relating to victims of crime; amending RCW 13.40.010,  
2 13.40.165, 13.40.200, 7.69.030, 7.69A.030, and 13.04.040; reenacting  
3 and amending RCW 13.40.020, 13.40.080, 13.40.160, and 13.40.190; and  
4 providing an effective date.

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

6            **Sec. 1.** RCW 13.40.010 and 1997 c 338 s 8 are each amended to read  
7 as follows:

8            (1) This chapter shall be known and cited as the Juvenile Justice  
9 Act of 1977.

10            (2) It is the intent of the legislature that a system capable of  
11 having primary responsibility for, being accountable for, and  
12 responding to the needs of youthful offenders and their victims, as  
13 defined by this chapter, be established. It is the further intent of  
14 the legislature that youth, in turn, be held accountable for their  
15 offenses and that communities, families, and the juvenile courts carry  
16 out their functions consistent with this intent. To effectuate these  
17 policies, the legislature declares the following to be equally  
18 important purposes of this chapter:

19            (a) Protect the citizenry from criminal behavior;

1 (b) Provide for determining whether accused juveniles have  
2 committed offenses as defined by this chapter;

3 (c) Make the juvenile offender accountable for his or her criminal  
4 behavior;

5 (d) Provide for punishment commensurate with the age, crime, and  
6 criminal history of the juvenile offender;

7 (e) Provide due process for juveniles alleged to have committed an  
8 offense;

9 (f) Provide necessary treatment, supervision, and custody for  
10 juvenile offenders;

11 (g) Provide for the handling of juvenile offenders by communities  
12 whenever consistent with public safety;

13 (h) Provide for restitution to victims of crime;

14 (i) Develop effective standards and goals for the operation,  
15 funding, and evaluation of all components of the juvenile justice  
16 system and related services at the state and local levels;

17 (j) Provide for a clear policy to determine what types of offenders  
18 shall receive punishment, treatment, or both, and to determine the  
19 jurisdictional limitations of the courts, institutions, and community  
20 services; (~~and~~)

21 (k) Provide opportunities for victim participation in juvenile  
22 justice process, including court hearings on juvenile offender matters,  
23 and ensure that Article I, section 35 of the Washington state  
24 Constitution, the victim bill of rights, is fully observed; and

25 (l) Encourage the parents, guardian, or custodian of the juvenile  
26 to actively participate in the juvenile justice process.

27 **Sec. 2.** RCW 13.40.020 and 2002 c 237 s 7 and 2002 c 175 s 19 are  
28 each reenacted and amended to read as follows:

29 For the purposes of this chapter:

30 (1) "Community-based rehabilitation" means one or more of the  
31 following: Employment; attendance of information classes; literacy  
32 classes; counseling, outpatient substance abuse treatment programs,  
33 outpatient mental health programs, anger management classes, education  
34 or outpatient treatment programs to prevent animal cruelty, or other  
35 services; or attendance at school or other educational programs  
36 appropriate for the juvenile as determined by the school district.

1 Placement in community-based rehabilitation programs is subject to  
2 available funds;

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

5 (a) A fine, not to exceed five hundred dollars;

6 (b) Community restitution not to exceed one hundred fifty hours of  
7 community restitution;

8 (3) "Community restitution" means compulsory service, without  
9 compensation, performed for the benefit of the community by the  
10 offender as punishment for committing an offense. Community  
11 restitution may be performed through public or private organizations or  
12 through work crews;

13 (4) "Community supervision" means an order of disposition by the  
14 court of an adjudicated youth not committed to the department or an  
15 order granting a deferred disposition. A community supervision order  
16 for a single offense may be for a period of up to two years for a sex  
17 offense as defined by RCW 9.94A.030 and up to one year for other  
18 offenses. As a mandatory condition of any term of community  
19 supervision, the court shall order the juvenile to refrain from  
20 committing new offenses. As a mandatory condition of community  
21 supervision, the court shall order the juvenile to comply with the  
22 mandatory school attendance provisions of chapter 28A.225 RCW and to  
23 inform the school of the existence of this requirement. Community  
24 supervision is an individualized program comprised of one or more of  
25 the following:

26 (a) Community-based sanctions;

27 (b) Community-based rehabilitation;

28 (c) Monitoring and reporting requirements;

29 (d) Posting of a probation bond;

30 (5) "Confinement" means physical custody by the department of  
31 social and health services in a facility operated by or pursuant to a  
32 contract with the state, or physical custody in a detention facility  
33 operated by or pursuant to a contract with any county. The county may  
34 operate or contract with vendors to operate county detention  
35 facilities. The department may operate or contract to operate  
36 detention facilities for juveniles committed to the department.  
37 Pretrial confinement or confinement of less than thirty-one days

1 imposed as part of a disposition or modification order may be served  
2 consecutively or intermittently, in the discretion of the court;

3 (6) "Court," when used without further qualification, means the  
4 juvenile court judge(s) or commissioner(s);

5 (7) "Criminal history" includes all criminal complaints against the  
6 respondent for which, prior to the commission of a current offense:

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

11 (b) The criminal complaint was diverted by a prosecutor pursuant to  
12 the provisions of this chapter on agreement of the respondent and after  
13 an advisement to the respondent that the criminal complaint would be  
14 considered as part of the respondent's criminal history. A  
15 successfully completed deferred adjudication that was entered before  
16 July 1, 1998, or a deferred disposition shall not be considered part of  
17 the respondent's criminal history;

18 (8) "Department" means the department of social and health  
19 services;

20 (9) "Detention facility" means a county facility, paid for by the  
21 county, for the physical confinement of a juvenile alleged to have  
22 committed an offense or an adjudicated offender subject to a  
23 disposition or modification order. "Detention facility" includes  
24 county group homes, inpatient substance abuse programs, juvenile basic  
25 training camps, and electronic monitoring;

26 (10) "Diversion unit" means any probation counselor who enters into  
27 a diversion agreement with an alleged youthful offender, or any other  
28 person, community accountability board, youth court under the  
29 supervision of the juvenile court, or other entity except a law  
30 enforcement official or entity, with whom the juvenile court  
31 administrator has contracted to arrange and supervise such agreements  
32 pursuant to RCW 13.40.080, or any person, community accountability  
33 board, or other entity specially funded by the legislature to arrange  
34 and supervise diversion agreements in accordance with the requirements  
35 of this chapter. For purposes of this subsection, "community  
36 accountability board" means a board comprised of members of the local  
37 community in which the juvenile offender resides. The superior court  
38 shall appoint the members. The boards shall consist of at least three

1 and not more than seven members. If possible, the board should include  
2 a variety of representatives from the community, such as a law  
3 enforcement officer, teacher or school administrator, high school  
4 student, parent, and business owner, and should represent the cultural  
5 diversity of the local community;

6 (11) "Foster care" means temporary physical care in a foster family  
7 home or group care facility as defined in RCW 74.15.020 and licensed by  
8 the department, or other legally authorized care;

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

11 (13) "Intensive supervision program" means a parole program that  
12 requires intensive supervision and monitoring, offers an array of  
13 individualized treatment and transitional services, and emphasizes  
14 community involvement and support in order to reduce the likelihood a  
15 juvenile offender will commit further offenses;

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

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

24 (16) "Local sanctions" means one or more of the following: (a)  
25 0-30 days of confinement; (b) 0-12 months of community supervision; (c)  
26 0-150 hours of community restitution; or (d) \$0-\$500 fine;

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

30 (18) "Monitoring and reporting requirements" means one or more of  
31 the following: Curfews; requirements to remain at home, school, work,  
32 or court-ordered treatment programs during specified hours;  
33 restrictions from leaving or entering specified geographical areas;  
34 requirements to report to the probation officer as directed and to  
35 remain under the probation officer's supervision; and other conditions  
36 or limitations as the court may require which may not include  
37 confinement;

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

5 (20) "Probation bond" means a bond, posted with sufficient security  
6 by a surety justified and approved by the court, to secure the  
7 offender's appearance at required court proceedings and compliance with  
8 court-ordered community supervision or conditions of release ordered  
9 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
10 cash or posting of other collateral in lieu of a bond if approved by  
11 the court;

12 (21) "Respondent" means a juvenile who is alleged or proven to have  
13 committed an offense;

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

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

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

31 (25) "Sex offense" means an offense defined as a sex offense in RCW  
32 9.94A.030;

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

36 (27) "Surety" means an entity licensed under state insurance laws  
37 or by the state department of licensing, to write corporate, property,

1 or probation bonds within the state, and justified and approved by the  
2 superior court of the county having jurisdiction of the case;

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

6 (29) "Violent offense" means a violent offense as defined in RCW  
7 9.94A.030;

8 (30) "Youth court" means a diversion unit under the supervision of  
9 the juvenile court.

10 **Sec. 3.** RCW 13.40.080 and 2002 c 237 s 8 and 2002 c 175 s 21 are  
11 each reenacted and amended to read as follows:

12 (1) A diversion agreement shall be a contract between a juvenile  
13 accused of an offense and a diversion unit whereby the juvenile agrees  
14 to fulfill certain conditions in lieu of prosecution. Such agreements  
15 may be entered into only after the prosecutor, or probation counselor  
16 pursuant to this chapter, has determined that probable cause exists to  
17 believe that a crime has been committed and that the juvenile committed  
18 it. Such agreements shall be entered into as expeditiously as  
19 possible.

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

22 (a) Community restitution not to exceed one hundred fifty hours,  
23 not to be performed during school hours if the juvenile is attending  
24 school;

25 (b) Restitution limited to the amount of actual loss incurred by  
26 any victim;

27 (c) Attendance at up to ten hours of counseling and/or up to twenty  
28 hours of educational or informational sessions at a community agency.  
29 The educational or informational sessions may include sessions relating  
30 to respect for self, others, and authority; victim awareness;  
31 accountability; self-worth; responsibility; work ethics; good  
32 citizenship; literacy; and life skills. For purposes of this section,  
33 "community agency" may also mean a community-based nonprofit  
34 organization, if approved by the diversion unit. The state shall not  
35 be liable for costs resulting from the diversion unit exercising the  
36 option to permit diversion agreements to mandate attendance at up to



1 ten hours of counseling and/or up to twenty hours of educational or  
2 informational sessions;

3 (d) A fine, not to exceed one hundred dollars;

4 (e) Requirements to remain during specified hours at home, school,  
5 or work, and restrictions on leaving or entering specified geographical  
6 areas; and

7 (f) Upon request of any victim or witness, requirements to refrain  
8 from any contact with victims or witnesses of offenses committed by the  
9 juvenile.

10 (3) Notwithstanding the provisions of subsection (2) of this  
11 section, youth courts are not limited to the conditions imposed by  
12 subsection (2) of this section in imposing sanctions on juveniles  
13 pursuant to RCW 13.40.630.

14 (4) In assessing periods of community restitution to be performed  
15 and restitution to be paid by a juvenile who has entered into a  
16 diversion agreement, the court officer to whom this task is assigned  
17 shall consult with the juvenile's custodial parent or parents or  
18 guardian (~~and~~). To the extent possible, the court officer shall  
19 advise the victims ((who have contacted the diversion unit)) of the  
20 juvenile offender of the diversion process, offer victim impact letter  
21 forms and restitution claim forms, and((, to the extent possible,))  
22 involve members of the community. Such members of the community shall  
23 meet with the juvenile and advise the court officer as to the terms of  
24 the diversion agreement and shall supervise the juvenile in carrying  
25 out its terms.

26 (5)(a) A diversion agreement may not exceed a period of six months  
27 and may include a period extending beyond the eighteenth birthday of  
28 the divertee.

29 (b) If additional time is necessary for the juvenile to complete  
30 restitution to a victim, the time period limitations of this subsection  
31 may be extended by an additional six months.

32 (c) If the juvenile has not paid the full amount of restitution by  
33 the end of the additional six-month period, then the juvenile shall be  
34 referred to the juvenile court for entry of an order establishing the  
35 amount of restitution still owed to the victim. In this order, the  
36 court shall also determine the terms and conditions of the restitution,  
37 including a payment plan extending up to ten years if the court  
38 determines that the juvenile does not have the means to make full

1 restitution over a shorter period. For the purposes of this subsection  
2 (5)(c), the juvenile shall remain under the court's jurisdiction for a  
3 maximum term of ten years after the juvenile's eighteenth birthday.  
4 Prior to the expiration of the initial ten-year period, the juvenile  
5 court may extend the judgment for restitution an additional ten years.  
6 The court may (~~not require the juvenile~~) relieve the juvenile of the  
7 requirement to pay full or partial restitution if the juvenile  
8 reasonably satisfies the court that he or she does not have the means  
9 to make full or partial restitution and could not reasonably acquire  
10 the means to pay the restitution over a ten-year period. If the court  
11 relieves the juvenile of the requirement to pay full or partial  
12 restitution, the court may order an amount of community restitution  
13 that the court deems appropriate. The county clerk shall make  
14 disbursements to victims named in the order. The restitution to  
15 victims named in the order shall be paid prior to any payment for other  
16 penalties or monetary assessments. A juvenile under obligation to pay  
17 restitution may petition the court for modification of the restitution  
18 order.

19 (6) The juvenile shall retain the right to be referred to the court  
20 at any time prior to the signing of the diversion agreement.

21 (7) Divertees and potential divertees shall be afforded due process  
22 in all contacts with a diversion unit regardless of whether the  
23 juveniles are accepted for diversion or whether the diversion program  
24 is successfully completed. Such due process shall include, but not be  
25 limited to, the following:

26 (a) A written diversion agreement shall be executed stating all  
27 conditions in clearly understandable language;

28 (b) Violation of the terms of the agreement shall be the only  
29 grounds for termination;

30 (c) No divertee may be terminated from a diversion program without  
31 being given a court hearing, which hearing shall be preceded by:

32 (i) Written notice of alleged violations of the conditions of the  
33 diversion program; and

34 (ii) Disclosure of all evidence to be offered against the divertee;

35 (d) The hearing shall be conducted by the juvenile court and shall  
36 include:

37 (i) Opportunity to be heard in person and to present evidence;

38 (ii) The right to confront and cross-examine all adverse witnesses;

1 (iii) A written statement by the court as to the evidence relied on  
2 and the reasons for termination, should that be the decision; and

3 (iv) Demonstration by evidence that the diverttee has substantially  
4 violated the terms of his or her diversion agreement.

5 (e) The prosecutor may file an information on the offense for which  
6 the diverttee was diverted:

7 (i) In juvenile court if the diverttee is under eighteen years of  
8 age; or

9 (ii) In superior court or the appropriate court of limited  
10 jurisdiction if the diverttee is eighteen years of age or older.

11 (8) The diversion unit shall, subject to available funds, be  
12 responsible for providing interpreters when juveniles need interpreters  
13 to effectively communicate during diversion unit hearings or  
14 negotiations.

15 (9) The diversion unit shall be responsible for advising a diverttee  
16 of his or her rights as provided in this chapter.

17 (10) The diversion unit may refer a juvenile to community-based  
18 counseling or treatment programs.

19 (11) The right to counsel shall inure prior to the initial  
20 interview for purposes of advising the juvenile as to whether he or she  
21 desires to participate in the diversion process or to appear in the  
22 juvenile court. The juvenile may be represented by counsel at any  
23 critical stage of the diversion process, including intake interviews  
24 and termination hearings. The juvenile shall be fully advised at the  
25 intake of his or her right to an attorney and of the relevant services  
26 an attorney can provide. For the purpose of this section, intake  
27 interviews mean all interviews regarding the diversion agreement  
28 process.

29 The juvenile shall be advised that a diversion agreement shall  
30 constitute a part of the juvenile's criminal history as defined by RCW  
31 13.40.020(7). A signed acknowledgment of such advisement shall be  
32 obtained from the juvenile, and the document shall be maintained by the  
33 diversion unit together with the diversion agreement, and a copy of  
34 both documents shall be delivered to the prosecutor if requested by the  
35 prosecutor. The supreme court shall promulgate rules setting forth the  
36 content of such advisement in simple language.

37 (12) When a juvenile enters into a diversion agreement, the

1 juvenile court may receive only the following information for  
2 dispositional purposes:

- 3 (a) The fact that a charge or charges were made;
- 4 (b) The fact that a diversion agreement was entered into;
- 5 (c) The juvenile's obligations under such agreement;
- 6 (d) Whether the alleged offender performed his or her obligations  
7 under such agreement; and
- 8 (e) The facts of the alleged offense.

9 (13) A diversion unit may refuse to enter into a diversion  
10 agreement with a juvenile. When a diversion unit refuses to enter a  
11 diversion agreement with a juvenile, it shall immediately refer such  
12 juvenile to the court for action and shall forward to the court the  
13 criminal complaint and a detailed statement of its reasons for refusing  
14 to enter into a diversion agreement. The diversion unit shall also  
15 immediately refer the case to the prosecuting attorney for action if  
16 such juvenile violates the terms of the diversion agreement.

17 (14) A diversion unit may, in instances where it determines that  
18 the act or omission of an act for which a juvenile has been referred to  
19 it involved no victim, or where it determines that the juvenile  
20 referred to it has no prior criminal history and is alleged to have  
21 committed an illegal act involving no threat of or instance of actual  
22 physical harm and involving not more than fifty dollars in property  
23 loss or damage and that there is no loss outstanding to the person or  
24 firm suffering such damage or loss, counsel and release or release such  
25 a juvenile without entering into a diversion agreement. A diversion  
26 unit's authority to counsel and release a juvenile under this  
27 subsection includes the authority to refer the juvenile to community-  
28 based counseling or treatment programs. Any juvenile released under  
29 this subsection shall be advised that the act or omission of any act  
30 for which he or she had been referred shall constitute a part of the  
31 juvenile's criminal history as defined by RCW 13.40.020(7). A signed  
32 acknowledgment of such advisement shall be obtained from the juvenile,  
33 and the document shall be maintained by the unit, and a copy of the  
34 document shall be delivered to the prosecutor if requested by the  
35 prosecutor. The supreme court shall promulgate rules setting forth the  
36 content of such advisement in simple language. A juvenile determined  
37 to be eligible by a diversion unit for release as provided in this

1 subsection shall retain the same right to counsel and right to have his  
2 or her case referred to the court for formal action as any other  
3 juvenile referred to the unit.

4 (15) A diversion unit may supervise the fulfillment of a diversion  
5 agreement entered into before the juvenile's eighteenth birthday and  
6 which includes a period extending beyond the divertee's eighteenth  
7 birthday.

8 (16) If a fine required by a diversion agreement cannot reasonably  
9 be paid due to a change of circumstance, the diversion agreement may be  
10 modified at the request of the divertee and with the concurrence of the  
11 diversion unit to convert an unpaid fine into community restitution.  
12 The modification of the diversion agreement shall be in writing and  
13 signed by the divertee and the diversion unit. The number of hours of  
14 community restitution in lieu of a monetary penalty shall be converted  
15 at the rate of the prevailing state minimum wage per hour.

16 (17) Fines imposed under this section shall be collected and paid  
17 into the county general fund in accordance with procedures established  
18 by the juvenile court administrator under RCW 13.04.040 and may be used  
19 only for juvenile services. In the expenditure of funds for juvenile  
20 services, there shall be a maintenance of effort whereby counties  
21 exhaust existing resources before using amounts collected under this  
22 section.

23 **Sec. 4.** RCW 13.40.160 and 2003 c 378 s 3 and 2003 c 53 s 99 are  
24 each reenacted and amended to read as follows:

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

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

32 (b) When the court sentences an offender to a standard range as  
33 provided in RCW 13.40.0357 option A that includes a term of confinement  
34 exceeding thirty days, commitment shall be to the department for the  
35 standard range of confinement, except as provided in subsection (2),  
36 (3), (4), (5), or (6) of this section.

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

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

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

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

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

33 (a)(i) Frequency and type of contact between the offender and  
34 therapist;

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

37 (iii) Monitoring plans, including any requirements regarding living

1 conditions, lifestyle requirements, and monitoring by family members,  
2 legal guardians, or others;

3 (iv) Anticipated length of treatment; and

4 (v) Recommended crime-related prohibitions.

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

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

27 (b)(i) Devote time to a specific education, employment, or  
28 occupation;

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

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

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

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

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

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

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

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

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

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

36 Except as provided in this subsection (3), after July 1, 1991,  
37 examinations and treatment ordered pursuant to this subsection shall  
38 only be conducted by sex offender treatment providers certified by the



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

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

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

26 A disposition entered under this subsection (3) is not appealable  
27 under RCW 13.40.230.

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

32 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
33 confinement, the court may impose the disposition alternative under RCW  
34 13.40.167.

35 (6) When the offender is subject to a standard range commitment of  
36 15 to 36 weeks and is ineligible for a suspended disposition  
37 alternative, a manifest injustice disposition below the standard range,  
38 special sex offender disposition alternative, chemical dependency

1 disposition alternative, or mental health disposition alternative, the  
2 court in a county with a pilot program under RCW 13.40.169, may impose  
3 the disposition alternative under RCW 13.40.169.

4 (7) RCW 13.40.193 shall govern the disposition of any juvenile  
5 adjudicated of possessing a firearm in violation of RCW  
6 9.41.040(2)(a)(iii) or any crime in which a special finding is entered  
7 that the juvenile was armed with a firearm.

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

12 (9) Except as provided under subsection (3), (4), (5), or (6) of  
13 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the  
14 court shall not suspend or defer the imposition or the execution of the  
15 disposition.

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

19 **Sec. 5.** RCW 13.40.165 and 2003 c 378 s 6 are each amended to read  
20 as follows:

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

1 (2) The report of the examination shall include at a minimum the  
2 following: The respondent's version of the facts and the official  
3 version of the facts, the respondent's offense history, an assessment  
4 of drug-alcohol problems and previous treatment attempts, the  
5 respondent's social, educational, and employment situation, and other  
6 evaluation measures used. The report shall set forth the sources of  
7 the examiner's information.

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

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

12 (b) Availability of appropriate treatment;

13 (c) Monitoring plans, including any requirements regarding living  
14 conditions, lifestyle requirements, and monitoring by family members,  
15 legal guardians, or others;

16 (d) Anticipated length of treatment; and

17 (e) Recommended crime-related prohibitions.

18 (4) The court on its own motion may order, or on a motion by the  
19 state or the respondent shall order, a second examination. The  
20 evaluator shall be selected by the party making the motion. The  
21 requesting party shall pay the cost of any examination ordered under  
22 this subsection unless the requesting party is the offender and the  
23 court finds that the offender is indigent and no third party insurance  
24 coverage is available, in which case the state shall pay the cost.

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

30 (b) If the court determines that this chemical dependency  
31 disposition alternative is appropriate, then the court shall impose the  
32 standard range for the offense, or if the court concludes, and enters  
33 reasons for its conclusion, that such disposition would effectuate a  
34 manifest injustice, the court shall impose a disposition above the  
35 standard range as indicated in option D of RCW 13.40.0357 if the  
36 disposition is an increase from the standard range and the confinement  
37 of the offender does not exceed a maximum of fifty-two weeks, suspend  
38 execution of the disposition, and place the offender on community

1 supervision for up to one year. As a condition of the suspended  
2 disposition, the court shall require the offender to undergo available  
3 outpatient drug/alcohol treatment and/or inpatient drug/alcohol  
4 treatment. For purposes of this section, inpatient treatment may not  
5 exceed ninety days. As a condition of the suspended disposition, the  
6 court may impose conditions of community supervision and other  
7 sanctions, including up to thirty days of confinement, one hundred  
8 fifty hours of community restitution, and payment of legal financial  
9 obligations and restitution.

10 (6) The drug/alcohol treatment provider shall submit monthly  
11 reports on the respondent's progress in treatment to the court and the  
12 parties. The reports shall reference the treatment plan and include at  
13 a minimum the following: Dates of attendance, respondent's compliance  
14 with requirements, treatment activities, the respondent's relative  
15 progress in treatment, and any other material specified by the court at  
16 the time of the disposition.

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

19 If the offender violates any condition of the disposition or the  
20 court finds that the respondent is failing to make satisfactory  
21 progress in treatment, the court may impose sanctions pursuant to RCW  
22 13.40.200 or revoke the suspension and order execution 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 (7) 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 offense charged. "Victim"  
29 may also include a known parent or guardian of a victim who is a minor  
30 child or is not a minor child but is incapacitated, incompetent,  
31 disabled, or deceased.

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

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

1 (10) A disposition under this section is not appealable under RCW  
2 13.40.230.

3 **Sec. 6.** RCW 13.40.190 and 1997 c 338 s 29 and 1997 c 121 s 9 are  
4 each reenacted and amended to read as follows:

5 (1) In its dispositional order, the court shall require the  
6 respondent to make restitution to any persons who have suffered loss or  
7 damage as a result of the offense committed by the respondent. In  
8 addition, restitution may be ordered for loss or damage if the offender  
9 pleads guilty to a lesser offense or fewer offenses and agrees with the  
10 prosecutor's recommendation that the offender be required to pay  
11 restitution to a victim of an offense or offenses which, pursuant to a  
12 plea agreement, are not prosecuted. The payment of restitution shall  
13 be in addition to any punishment which is imposed pursuant to the other  
14 provisions of this chapter. The court may determine the amount, terms,  
15 and conditions of the restitution including a payment plan extending up  
16 to ten years if the court determines that the respondent does not have  
17 the means to make full restitution over a shorter period. Restitution  
18 may include the costs of counseling reasonably related to the offense.  
19 If the respondent participated in the crime with another person or  
20 other persons, all such participants shall be jointly and severally  
21 responsible for the payment of restitution. For the purposes of this  
22 section, the respondent shall remain under the court's jurisdiction for  
23 a maximum term of ten years after the respondent's eighteenth birthday.  
24 Prior to the expiration of the ten-year period, the juvenile court may  
25 extend the judgment for the payment of restitution for an additional  
26 ten years. At any time, the court may determine that the respondent is  
27 not required to pay, or may relieve the respondent of the requirement  
28 to pay, full or partial restitution to any insurance provider  
29 authorized under Title 48 RCW if the respondent reasonably satisfies  
30 the court that he or she does not have the means to make full or  
31 partial restitution to the insurance provider and could not reasonably  
32 acquire the means to pay the insurance provider the restitution over a  
33 ten-year period.

34 (2) Regardless of the provisions of subsection (1) of this section,  
35 the court shall order restitution in all cases where the victim is  
36 entitled to benefits under the crime victims' compensation act, chapter  
37 7.68 RCW. If the court does not order restitution and the victim of

1 the crime has been determined to be entitled to benefits under the  
2 crime victims' compensation act, the department of labor and  
3 industries, as administrator of the crime victims' compensation  
4 program, may petition the court within one year of entry of the  
5 disposition order for entry of a restitution order. Upon receipt of a  
6 petition from the department of labor and industries, the court shall  
7 hold a restitution hearing and shall enter a restitution order.

8 (3) If an order includes restitution as one of the monetary  
9 assessments, the county clerk shall make disbursements to victims named  
10 in the order. The restitution to victims named in the order shall be  
11 paid prior to any payment for other penalties or monetary assessments.

12 (4) For purposes of this section, "victim" means any person who has  
13 sustained emotional, psychological, physical, or financial injury to  
14 person or property as a direct result of the offense charged. "Victim"  
15 may also include a known parent or guardian of a victim who is a minor  
16 child or is not a minor child but is incapacitated, incompetent,  
17 disabled, or deceased.

18 (5) A respondent under obligation to pay restitution may petition  
19 the court for modification of the restitution order.

20 **Sec. 7.** RCW 13.40.200 and 2002 c 175 s 25 are each amended to read  
21 as follows:

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

26 (2) The hearing shall afford the respondent the same due process of  
27 law as would be afforded an adult probationer. The court may issue a  
28 summons or a warrant to compel the respondent's appearance. The state  
29 shall have the burden of proving by a preponderance of the evidence the  
30 fact of the violation. The respondent shall have the burden of showing  
31 that the violation was not a willful refusal to comply with the terms  
32 of the order. If a respondent has failed to pay a fine, penalty  
33 assessments, or restitution or to perform community restitution hours,  
34 as required by the court, it shall be the respondent's burden to show  
35 that he or she did not have the means and could not reasonably have  
36 acquired the means to pay the fine, penalty assessments, or restitution  
37 or perform community restitution.

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

10 (4) If a respondent has been ordered to pay a fine or monetary  
11 penalty and due to a change of circumstance cannot reasonably comply  
12 with the order, the court, upon motion of the respondent, may order  
13 that the unpaid fine or monetary penalty be converted to community  
14 restitution unless the monetary penalty is the crime victim penalty  
15 assessment, which cannot be converted, waived, or otherwise modified,  
16 except for schedule of payment. The number of hours of community  
17 restitution in lieu of a monetary penalty or fine shall be converted at  
18 the rate of the prevailing state minimum wage per hour. The monetary  
19 penalties or fines collected shall be deposited in the county general  
20 fund. A failure to comply with an order under this subsection shall be  
21 deemed a failure to comply with an order of community supervision and  
22 may be proceeded against as provided in this section.

23 (5) When a respondent has willfully violated the terms of a  
24 probation bond, the court may modify, revoke, or retain the probation  
25 bond as provided in RCW 13.40.054.

26 **Sec. 8.** RCW 7.69.030 and 1999 c 323 s 2 are each amended to read  
27 as follows:

28 There shall be a reasonable effort made to ensure that victims,  
29 survivors of victims, and witnesses of crimes have the following  
30 rights, which apply to any criminal court and/or juvenile court  
31 proceeding:

32 (1) With respect to victims of violent or sex crimes, to receive,  
33 at the time of reporting the crime to law enforcement officials, a  
34 written statement of the rights of crime victims as provided in this  
35 chapter. The written statement shall include the name, address, and  
36 telephone number of a county or local crime victim/witness program, if  
37 such a crime victim/witness program exists in the county;

1 (2) To be informed by local law enforcement agencies or the  
2 prosecuting attorney of the final disposition of the case in which the  
3 victim, survivor, or witness is involved;

4 (3) To be notified by the party who issued the subpoena that a  
5 court proceeding to which they have been subpoenaed will not occur as  
6 scheduled, in order to save the person an unnecessary trip to court;

7 (4) To receive protection from harm and threats of harm arising out  
8 of cooperation with law enforcement and prosecution efforts, and to be  
9 provided with information as to the level of protection available;

10 (5) To be informed of the procedure to be followed to apply for and  
11 receive any witness fees to which they are entitled;

12 (6) To be provided, whenever practical, a secure waiting area  
13 during court proceedings that does not require them to be in close  
14 proximity to defendants and families or friends of defendants;

15 (7) To have any stolen or other personal property expeditiously  
16 returned by law enforcement agencies or the superior court when no  
17 longer needed as evidence. When feasible, all such property, except  
18 weapons, currency, contraband, property subject to evidentiary  
19 analysis, and property of which ownership is disputed, shall be  
20 photographed and returned to the owner within ten days of being taken;

21 (8) To be provided with appropriate employer intercession services  
22 to ensure that employers of victims, survivors of victims, and  
23 witnesses of crime will cooperate with the criminal justice process in  
24 order to minimize an employee's loss of pay and other benefits  
25 resulting from court appearance;

26 (9) To access to immediate medical assistance and not to be  
27 detained for an unreasonable length of time by a law enforcement agency  
28 before having such assistance administered. However, an employee of  
29 the law enforcement agency may, if necessary, accompany the person to  
30 a medical facility to question the person about the criminal incident  
31 if the questioning does not hinder the administration of medical  
32 assistance;

33 (10) With respect to victims of violent and sex crimes, to have a  
34 crime victim advocate from a crime victim/witness program, or any other  
35 support person of the victim's choosing, present at any prosecutorial  
36 or defense interviews with the victim, and at any judicial proceedings  
37 related to criminal acts committed against the victim. This subsection  
38 applies if practical and if the presence of the crime victim advocate



1 or support person does not cause any unnecessary delay in the  
2 investigation or prosecution of the case. The role of the crime victim  
3 advocate is to provide emotional support to the crime victim;

4 (11) With respect to victims and survivors of victims, to be  
5 physically present in court during trial, or if subpoenaed to testify,  
6 to be scheduled as early as practical in the proceedings in order to be  
7 physically present during trial after testifying and not to be excluded  
8 solely because they have testified;

9 (12) With respect to victims and survivors of victims, to be  
10 informed by the prosecuting attorney of the date, time, and place of  
11 the trial and of the sentencing hearing for felony convictions upon  
12 request by a victim or survivor;

13 (13) To submit a victim impact statement or report to the court,  
14 with the assistance of the prosecuting attorney if requested, which  
15 shall be included in all presentence reports and permanently included  
16 in the files and records accompanying the offender committed to the  
17 custody of a state agency or institution;

18 (14) With respect to victims and survivors of victims, to present  
19 a statement personally or by representation, at the sentencing hearing  
20 for felony convictions;

21 (15) With respect to victims and survivors of victims, to entry of  
22 an order of restitution by the court in all felony cases, even when the  
23 offender is sentenced to confinement, unless extraordinary  
24 circumstances exist which make restitution inappropriate in the court's  
25 judgment; and

26 (16) With respect to victims and survivors of victims, to present  
27 a statement in person, via audio or videotape, in writing or by  
28 representation at any hearing conducted regarding an application for  
29 pardon or commutation of sentence.

30 **Sec. 9.** RCW 7.69A.030 and 1997 c 283 s 2 are each amended to read  
31 as follows:

32 In addition to the rights of victims and witnesses provided for in  
33 RCW 7.69.030, there shall be every reasonable effort made by law  
34 enforcement agencies, prosecutors, and judges to assure that child  
35 victims and witnesses are afforded the rights enumerated in this  
36 section. Except as provided in RCW 7.69A.050 regarding child victims  
37 or child witnesses of violent crimes, sex crimes, or child abuse, the

1 enumeration of rights shall not be construed to create substantive  
2 rights and duties, and the application of an enumerated right in an  
3 individual case is subject to the discretion of the law enforcement  
4 agency, prosecutor, or judge. Child victims and witnesses have the  
5 following rights, which apply to any criminal court and/or juvenile  
6 court proceeding:

7 (1) To have explained in language easily understood by the child,  
8 all legal proceedings and/or police investigations in which the child  
9 may be involved.

10 (2) With respect to child victims of sex or violent crimes or child  
11 abuse, to have a crime victim advocate from a crime victim/witness  
12 program, or any other support person of the victim's choosing, present  
13 at any prosecutorial or defense interviews with the child victim. This  
14 subsection applies if practical and if the presence of the crime victim  
15 advocate or support person does not cause any unnecessary delay in the  
16 investigation or prosecution of the case. The role of the crime victim  
17 advocate is to provide emotional support to the child victim and to  
18 promote the child's feelings of security and safety.

19 (3) To be provided, whenever possible, a secure waiting area during  
20 court proceedings and to have an advocate or support person remain with  
21 the child prior to and during any court proceedings.

22 (4) To not have the names, addresses, nor photographs of the living  
23 child victim or witness disclosed by any law enforcement agency,  
24 prosecutor's office, or state agency without the permission of the  
25 child victim, child witness, parents, or legal guardians to anyone  
26 except another law enforcement agency, prosecutor, defense counsel, or  
27 private or governmental agency that provides services to the child  
28 victim or witness.

29 (5) To allow an advocate to make recommendations to the prosecuting  
30 attorney about the ability of the child to cooperate with prosecution  
31 and the potential effect of the proceedings on the child.

32 (6) To allow an advocate to provide information to the court  
33 concerning the child's ability to understand the nature of the  
34 proceedings.

35 (7) To be provided information or appropriate referrals to social  
36 service agencies to assist the child and/or the child's family with the  
37 emotional impact of the crime, the subsequent investigation, and  
38 judicial proceedings in which the child is involved.

1 (8) To allow an advocate to be present in court while the child  
2 testifies in order to provide emotional support to the child.

3 (9) To provide information to the court as to the need for the  
4 presence of other supportive persons at the court proceedings while the  
5 child testifies in order to promote the child's feelings of security  
6 and safety.

7 (10) To allow law enforcement agencies the opportunity to enlist  
8 the assistance of other professional personnel such as child protection  
9 services, victim advocates or prosecutorial staff trained in the  
10 interviewing of the child victim.

11 (11) With respect to child victims of violent or sex crimes or  
12 child abuse, to receive either directly or through the child's parent  
13 or guardian if appropriate, at the time of reporting the crime to law  
14 enforcement officials, a written statement of the rights of child  
15 victims as provided in this chapter. The written statement shall  
16 include the name, address, and telephone number of a county or local  
17 crime victim/witness program, if such a crime victim/witness program  
18 exists in the county.

19 **Sec. 10.** RCW 13.04.040 and 1995 c 312 s 40 are each amended to  
20 read as follows:

21 The administrator shall, in any county or judicial district in the  
22 state, appoint or designate one or more persons of good character to  
23 serve as probation counselors during the pleasure of the administrator.  
24 The probation counselor shall:

25 (1) Receive and examine referrals to the juvenile court for the  
26 purpose of considering the filing of a petition or information pursuant  
27 to chapter 13.32A or 13.34 RCW or RCW 13.40.070;

28 (2) Make recommendations to the court regarding the need for  
29 continued detention or shelter care of a child unless otherwise  
30 provided in this title;

31 (3) Arrange and supervise diversion agreements as provided in RCW  
32 13.40.080, and ensure that the requirements of such agreements are met  
33 except as otherwise provided in this title;

34 (4) Prepare predisposition studies as required in RCW (~~13.34.120~~  
35 ~~and~~) 13.40.130, and be present at the disposition hearing to respond  
36 to questions regarding the predisposition study: PROVIDED, That such  
37 duties shall be performed by the department for cases relating to

1 dependency or to the termination of a parent and child relationship  
2 which is filed by the department unless otherwise ordered by the court;  
3 and

4 (5) Supervise court orders of disposition to ensure that all  
5 requirements of the order are met.

6 All probation counselors shall possess all the powers conferred  
7 upon sheriffs and police officers to serve process and make arrests of  
8 juveniles under their supervision for the violation of any state law or  
9 county or city ordinance.

10 The administrator may, in any county or judicial district in the  
11 state, appoint one or more persons who shall have charge of detention  
12 rooms or houses of detention.

13 The probation counselors and persons appointed to have charge of  
14 detention facilities shall each receive compensation which shall be  
15 fixed by the legislative authority of the county, or in cases of joint  
16 counties, judicial districts of more than one county, or joint judicial  
17 districts such sums as shall be agreed upon by the legislative  
18 authorities of the counties affected, and such persons shall be paid as  
19 other county officers are paid.

20 The administrator is hereby authorized, and to the extent possible  
21 is encouraged to, contract with private agencies existing within the  
22 community for the provision of services to youthful offenders and youth  
23 who have entered into diversion agreements pursuant to RCW 13.40.080.

24 The administrator shall establish procedures for the collection of  
25 fines assessed under RCW 13.40.080 (2)(d) and (~~(+13+)~~) (14) and for the  
26 payment of the fines into the county general fund.

27 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2004.

Passed by the Senate March 10, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 24, 2004.

Filed in Office of Secretary of State March 24, 2004.