

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5903**

Chapter 378, Laws of 2003

(partial veto)

58th Legislature  
2003 Regular Session

JUVENILE SENTENCING

EFFECTIVE DATE: 7/27/03

Passed by the Senate April 27, 2003  
YEAS 41 NAYS 7

BRAD OWEN

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

Passed by the House April 27, 2003  
YEAS 98 NAYS 0

FRANK CHOPP

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

Approved May 20, 2003, with the  
exception of section 1, which is vetoed.

GARY LOCKE

\_\_\_\_\_  
**Governor of the State of Washington**

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  
5903** as passed by the Senate and  
the House of Representatives on  
the dates hereon set forth.

MILTON H. DOUMIT JR.

\_\_\_\_\_  
**Secretary**

FILED

May 20, 2003 - 2:51 p.m.

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE SENATE BILL 5903

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AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington                      58th Legislature                      2003 Regular Session

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

READ FIRST TIME 03/05/03.

1            AN ACT Relating to juvenile offender sentences; amending RCW  
2 13.40.160; reenacting and amending RCW 13.40.0357 and 13.40.165; adding  
3 a new section to chapter 72.05 RCW; adding new sections to chapter  
4 13.40 RCW; creating new sections; and providing expiration dates.

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

6            ***\*NEW SECTION. Sec. 1. A new section is added to chapter 72.05 RCW***  
7 ***to read as follows:***

8            ***(1) It is the intent of the legislature that appropriate treatment***  
9 ***services be provided to juvenile offenders in order to achieve***  
10 ***rehabilitation. The treatment should be provided at either local***  
11 ***detention facilities or at state institutions depending upon which***  
12 ***facility best meets the needs of the individual juvenile offender.***

13            ***(2) No juvenile rehabilitation administration institution shall be***  
14 ***closed without specific authorization in an act of the legislature.***

15            ***(3) If a juvenile rehabilitation administration institution is***  
16 ***closed by the legislature, the department of corrections shall be***  
17 ***prohibited from operating the institution and the institution shall not***  
18 ***be used to incarcerate adult offenders.***

*\*Sec. 1 was vetoed. See message at end of chapter.*

1           **Sec. 2.** RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are  
2 each reenacted and amended to read as follows:

3                                   **DESCRIPTION AND OFFENSE CATEGORY**

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

9 .....  
.....

10                           **Arson and Malicious Mischief**

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

22                           **Assault and Other Crimes Involving**

23                           **Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

33                           **Burglary and Trespass**

B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary (9A.52.025)	C

1	B	Burglary 2 (9A.52.030)	C
2	D	Burglary Tools (Possession of) (9A.52.060)	E
3	D	Criminal Trespass 1 (9A.52.070)	E
4	E	Criminal Trespass 2 (9A.52.080)	E
5	C	Vehicle Prowling 1 (9A.52.095)	D
6	D	Vehicle Prowling 2 (9A.52.100)	E
7		<b>Drugs</b>	
8	E	Possession/Consumption of Alcohol	
9		(66.44.270)	E
10	C	Illegally Obtaining Legend Drug	
11		(69.41.020)	D
12	C+	Sale, Delivery, Possession of Legend Drug	
13		with Intent to Sell (69.41.030)	D+
14	E	Possession of Legend Drug (69.41.030)	E
15	B+	Violation of Uniform Controlled	
16		Substances Act - Narcotic,	
17		Methamphetamine, or Flunitrazepam Sale	
18		(69.50.401(a)(1) (i) or (ii))	B+
19	C	Violation of Uniform Controlled	
20		Substances Act - Nonnarcotic Sale	
21		(69.50.401(a)(1)(iii))	C
22	E	Possession of Marihuana <40 grams	
23		(69.50.401(e))	E
24	C	Fraudulently Obtaining Controlled	
25		Substance (69.50.403)	C
26	C+	Sale of Controlled Substance for Profit	
27		(69.50.410)	C+
28	E	Unlawful Inhalation (9.47A.020)	E
29	B	Violation of Uniform Controlled	
30		Substances Act - Narcotic,	
31		Methamphetamine, or Flunitrazepam	
32		Counterfeit Substances (69.50.401(b)(1) (i)	
33		or (ii))	B
34	C	Violation of Uniform Controlled	
35		Substances Act - Nonnarcotic Counterfeit	
36		Substances (69.50.401(b)(1) (iii), (iv), (v))	C

1	C	Violation of Uniform Controlled	
2		Substances Act - Possession of a Controlled	
3		Substance (69.50.401(d))	C
4	C	Violation of Uniform Controlled	
5		Substances Act - Possession of a Controlled	
6		Substance (69.50.401(c))	C
7		<b>Firearms and Weapons</b>	
8	B	Theft of Firearm (9A.56.300)	C
9	B	Possession of Stolen Firearm (9A.56.310)	C
10	E	Carrying Loaded Pistol Without Permit	
11		(9.41.050)	E
12	C	Possession of Firearms by Minor (<18)	
13		(9.41.040(1)(b)(iii))	C
14	D+	Possession of Dangerous Weapon	
15		(9.41.250)	E
16	D	Intimidating Another Person by use of	
17		Weapon (9.41.270)	E
18		<b>Homicide</b>	
19	A+	Murder 1 (9A.32.030)	A
20	A+	Murder 2 (9A.32.050)	B+
21	B+	Manslaughter 1 (9A.32.060)	C+
22	C+	Manslaughter 2 (9A.32.070)	D+
23	B+	Vehicle Homicide (46.61.520)	C+
24		<b>Kidnapping</b>	
25	A	Kidnap 1 (9A.40.020)	B+
26	B+	Kidnap 2 (9A.40.030)	C+
27	C+	Unlawful Imprisonment (9A.40.040)	D+
28		<b>Obstructing Governmental Operation</b>	
29	D	Obstructing a Law Enforcement Officer	
30		(9A.76.020)	E
31	E	Resisting Arrest (9A.76.040)	E
32	B	Introducing Contraband 1 (9A.76.140)	C
33	C	Introducing Contraband 2 (9A.76.150)	D
34	E	Introducing Contraband 3 (9A.76.160)	E
35	B+	Intimidating a Public Servant (9A.76.180)	C+
36	B+	Intimidating a Witness (9A.72.110)	C+

1		<b>Public Disturbance</b>	
2	C+	Riot with Weapon (9A.84.010)	D+
3	D+	Riot Without Weapon (9A.84.010)	E
4	E	Failure to Disperse (9A.84.020)	E
5	E	Disorderly Conduct (9A.84.030)	E
6		<b>Sex Crimes</b>	
7	A	Rape 1 (9A.44.040)	B+
8	A-	Rape 2 (9A.44.050)	B+
9	C+	Rape 3 (9A.44.060)	D+
10	A-	Rape of a Child 1 (9A.44.073)	B+
11	B+	Rape of a Child 2 (9A.44.076)	C+
12	B	Incest 1 (9A.64.020(1))	C
13	C	Incest 2 (9A.64.020(2))	D
14	D+	Indecent Exposure (Victim <14)	
15		(9A.88.010)	E
16	E	Indecent Exposure (Victim 14 or over)	
17		(9A.88.010)	E
18	B+	Promoting Prostitution 1 (9A.88.070)	C+
19	C+	Promoting Prostitution 2 (9A.88.080)	D+
20	E	O & A (Prostitution) (9A.88.030)	E
21	B+	Indecent Liberties (9A.44.100)	C+
22	A-	Child Molestation 1 (9A.44.083)	B+
23	B	Child Molestation 2 (9A.44.086)	C+
24		<b>Theft, Robbery, Extortion, and Forgery</b>	
25	B	Theft 1 (9A.56.030)	C
26	C	Theft 2 (9A.56.040)	D
27	D	Theft 3 (9A.56.050)	E
28	B	Theft of Livestock (9A.56.080)	C
29	C	Forgery (9A.60.020)	D
30	A	Robbery 1 (9A.56.200)	B+
31	B+	Robbery 2 (9A.56.210)	C+
32	B+	Extortion 1 (9A.56.120)	C+
33	C+	Extortion 2 (9A.56.130)	D+
34	C	Identity Theft 1 (9.35.020(2)(a))	D
35	D	Identity Theft 2 (9.35.020(2)(b))	E
36	D	Improperly Obtaining Financial	
37		Information (9.35.010)	E

1	B	Possession of Stolen Property 1	
2		(9A.56.150)	C
3	C	Possession of Stolen Property 2	
4		(9A.56.160)	D
5	D	Possession of Stolen Property 3	
6		(9A.56.170)	E
7	C	Taking Motor Vehicle Without Permission	
8		1 and 2 (9A.56.070 (1) and (2))	D
9		<b>Motor Vehicle Related Crimes</b>	
10	E	Driving Without a License (46.20.005)	E
11	B+	Hit and Run - Death (46.52.020(4)(a))	C+
12	C	Hit and Run - Injury (46.52.020(4)(b))	D
13	D	Hit and Run-Attended (46.52.020(5))	E
14	E	Hit and Run-Unattended (46.52.010)	E
15	C	Vehicular Assault (46.61.522)	D
16	C	Attempting to Elude Pursuing Police	
17		Vehicle (46.61.024)	D
18	E	Reckless Driving (46.61.500)	E
19	D	Driving While Under the Influence	
20		(46.61.502 and 46.61.504)	E
21		<b>Other</b>	
22	B	Bomb Threat (9.61.160)	C
23	C	Escape 1 <sup>1</sup> (9A.76.110)	C
24	C	Escape 2 <sup>1</sup> (9A.76.120)	C
25	D	Escape 3 (9A.76.130)	E
26	E	Obscene, Harassing, Etc., Phone Calls	
27		(9.61.230)	E
28	A	Other Offense Equivalent to an Adult Class	
29		A Felony	B+
30	B	Other Offense Equivalent to an Adult Class	
31		B Felony	C
32	C	Other Offense Equivalent to an Adult Class	
33		C Felony	D
34	D	Other Offense Equivalent to an Adult	
35		Gross Misdemeanor	E
36	E	Other Offense Equivalent to an Adult	
37		Misdemeanor	E

V Violation of Order of Restitution,  
 Community Supervision, or Confinement  
 (13.40.200)<sup>2</sup> V

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

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

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

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

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

**JUVENILE SENTENCING STANDARDS**

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

**OPTION A  
 JUVENILE OFFENDER SENTENCING GRID  
 STANDARD RANGE**

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	B+	15-36	52-65	80-100	103-129
Offense		WEEKS	WEEKS	WEEKS	WEEKS

Category	B	LOCAL		52-65
		SANCTIONS (LS)	15-36 WEEKS	WEEKS



1	C+	LS							
2									
3									
4	C	LS							
5									
6									
7	D+	LS							
8									
9	D	LS							
10									
11	E	LS							
12									
13			0	1	2	3	4		
14									or more
15			PRIOR ADJUDICATIONS						

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

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

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

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

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

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

34 **OR**

35 **OPTION B**  
 36 **SUSPENDED DISPOSITION ALTERNATIVE**

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

1 treatment requirement. The treatment programs provided to the offender  
2 must be research-based best practice programs as identified by the  
3 Washington state institute for public policy or the joint legislative  
4 audit and review committee.

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

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

10 (a) Adjudicated of an A+ offense;

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

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

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

16 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
17 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
18 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
19 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
20 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
21 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
22 witness (RCW 9A.72.110), violation of the uniform controlled substances  
23 act (RCW 69.50.401(a)(1) (i) or (ii)), or manslaughter 2 (RCW  
24 9A.32.070), when the offense includes infliction of bodily harm upon  
25 another or when during the commission or immediate withdrawal from the  
26 offense the respondent was armed with a deadly weapon;

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

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

30 **OR**

31 **OPTION C**

32 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

37 **OR**

**OPTION ((E)) D**  
**MANIFEST INJUSTICE**

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

**Sec. 3.** RCW 13.40.160 and 2002 c 175 s 22 are each amended to read as follows:

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

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

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

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

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

(3) When a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex

1 offense, the court, on its own motion or the motion of the state or the  
2 respondent, may order an examination to determine whether the  
3 respondent is amenable to treatment.

4 The report of the examination shall include at a minimum the  
5 following: The respondent's version of the facts and the official  
6 version of the facts, the respondent's offense history, an assessment  
7 of problems in addition to alleged deviant behaviors, the respondent's  
8 social, educational, and employment situation, and other evaluation  
9 measures used. The report shall set forth the sources of the  
10 evaluator's information.

11 The examiner shall assess and report regarding the respondent's  
12 amenability to treatment and relative risk to the community. A  
13 proposed treatment plan shall be provided and shall include, at a  
14 minimum:

15 (a)(i) Frequency and type of contact between the offender and  
16 therapist;

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

19 (iii) Monitoring plans, including any requirements regarding living  
20 conditions, lifestyle requirements, and monitoring by family members,  
21 legal guardians, or others;

22 (iv) Anticipated length of treatment; and

23 (v) Recommended crime-related prohibitions.

24 The court on its own motion may order, or on a motion by the state  
25 shall order, a second examination regarding the offender's amenability  
26 to treatment. The evaluator shall be selected by the party making the  
27 motion. The defendant shall pay the cost of any second examination  
28 ordered unless the court finds the defendant to be indigent in which  
29 case the state shall pay the cost.

30 After receipt of reports of the examination, the court shall then  
31 consider whether the offender and the community will benefit from use  
32 of this special sex offender disposition alternative and consider the  
33 victim's opinion whether the offender should receive a treatment  
34 disposition under this section. If the court determines that this  
35 special sex offender disposition alternative is appropriate, then the  
36 court shall impose a determinate disposition within the standard range  
37 for the offense, or if the court concludes, and enters reasons for its  
38 conclusions, that such disposition would cause a manifest injustice,

1 the court shall impose a disposition under option ((C)) D, and the  
2 court may suspend the execution of the disposition and place the  
3 offender on community supervision for at least two years. As a  
4 condition of the suspended disposition, the court may impose the  
5 conditions of community supervision and other conditions, including up  
6 to thirty days of confinement and requirements that the offender do any  
7 one or more of the following:

8 (b)(i) Devote time to a specific education, employment, or  
9 occupation;

10 (ii) Undergo available outpatient sex offender treatment for up to  
11 two years, or inpatient sex offender treatment not to exceed the  
12 standard range of confinement for that offense. A community mental  
13 health center may not be used for such treatment unless it has an  
14 appropriate program designed for sex offender treatment. The  
15 respondent shall not change sex offender treatment providers or  
16 treatment conditions without first notifying the prosecutor, the  
17 probation counselor, and the court, and shall not change providers  
18 without court approval after a hearing if the prosecutor or probation  
19 counselor object to the change;

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

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

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

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

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

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

33 (ix) The court shall order that the offender may not attend the  
34 public or approved private elementary, middle, or high school attended  
35 by the victim or the victim's siblings. The parents or legal guardians  
36 of the offender are responsible for transportation or other costs  
37 associated with the offender's change of school that would otherwise be  
38 paid by the school district. The court shall send notice of the

1 disposition and restriction on attending the same school as the victim  
2 or victim's siblings to the public or approved private school the  
3 juvenile will attend, if known, or if unknown, to the approved private  
4 schools and the public school district board of directors of the  
5 district in which the juvenile resides or intends to reside. This  
6 notice must be sent at the earliest possible date but not later than  
7 ten calendar days after entry of the disposition.

8 The sex offender treatment provider shall submit quarterly reports  
9 on the respondent's progress in treatment to the court and the parties.  
10 The reports shall reference the treatment plan and include at a minimum  
11 the following: Dates of attendance, respondent's compliance with  
12 requirements, treatment activities, the respondent's relative progress  
13 in treatment, and any other material specified by the court at the time  
14 of the disposition.

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

17 Except as provided in this subsection (3), after July 1, 1991,  
18 examinations and treatment ordered pursuant to this subsection shall  
19 only be conducted by sex offender treatment providers certified by the  
20 department of health pursuant to chapter 18.155 RCW. A sex offender  
21 therapist who examines or treats a juvenile sex offender pursuant to  
22 this subsection does not have to be certified by the department of  
23 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
24 offender has already moved to another state or plans to move to another  
25 state for reasons other than circumventing the certification  
26 requirements; (B) no certified providers are available for treatment  
27 within a reasonable geographical distance of the offender's home; and  
28 (C) the evaluation and treatment plan comply with this subsection (3)  
29 and the rules adopted by the department of health.

30 If the offender violates any condition of the disposition or the  
31 court finds that the respondent is failing to make satisfactory  
32 progress in treatment, the court may revoke the suspension and order  
33 execution of the disposition or the court may impose a penalty of up to  
34 thirty days' confinement for violating conditions of the disposition.  
35 The court may order both execution of the disposition and up to thirty  
36 days' confinement for the violation of the conditions of the  
37 disposition. The court shall give credit for any confinement time

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

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

8 A disposition entered under this subsection (3) is not appealable  
9 under RCW 13.40.230.

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

14 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
15 confinement, the court may impose the disposition alternative under  
16 section 4 of this act.

17 (6) When the offender is subject to a standard range commitment of  
18 15 to 36 weeks and is ineligible for a suspended disposition  
19 alternative, a manifest injustice disposition below the standard range,  
20 special sex offender disposition alternative, chemical dependency  
21 disposition alternative, or mental health disposition alternative, the  
22 court in a county with a pilot program under section 5 of this act may  
23 impose the disposition alternative under section 5 of this act.

24 (7) RCW 13.40.193 shall govern the disposition of any juvenile  
25 adjudicated of possessing a firearm in violation of RCW  
26 9.41.040(1)(b)(iii) or any crime in which a special finding is entered  
27 that the juvenile was armed with a firearm.

28 ~~((+6))~~ (8) Whenever a juvenile offender is entitled to credit for  
29 time spent in detention prior to a dispositional order, the  
30 dispositional order shall specifically state the number of days of  
31 credit for time served.

32 ~~((+7))~~ (9) Except as provided under subsection (3) ~~((+8))~~, (4),  
33 (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW  
34 13.40.127, the court shall not suspend or defer the imposition or the  
35 execution of the disposition.

36 ~~((+8))~~ (10) In no case shall the term of confinement imposed by  
37 the court at disposition exceed that to which an adult could be  
38 subjected for the same offense.

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

3        (1) When an offender is subject to a standard range commitment of  
4 15 to 65 weeks, the court may:

5            (a) Impose the standard range; or

6            (b) Suspend the standard range disposition on condition that the  
7 offender complies with the terms of this mental health disposition  
8 alternative.

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

11            (a) The offender has a current diagnosis, consistent with the  
12 American psychiatry association diagnostic and statistical manual of  
13 mental disorders, of axis I psychiatric disorder, excluding youth that  
14 are diagnosed as solely having a conduct disorder, oppositional defiant  
15 disorder, substance abuse disorder, paraphilia, or pedophilia;

16            (b) An appropriate treatment option is available in the local  
17 community;

18            (c) The plan for the offender identifies and addresses requirements  
19 for successful participation and completion of the treatment  
20 intervention program including: Incentives and graduated sanctions  
21 designed specifically for amenable youth, including the use of  
22 detention, detoxication, and in-patient or outpatient substance abuse  
23 treatment and psychiatric hospitalization, and structured community  
24 support consisting of mental health providers, probation, educational  
25 and vocational advocates, child welfare services, and family and  
26 community support. For any mental health treatment ordered for an  
27 offender under this section, the treatment option selected shall be  
28 chosen from among programs which have been successful in addressing  
29 mental health needs of juveniles and successful in mental health  
30 treatment of juveniles and identified as research-based best practice  
31 programs. A list of programs which meet these criteria shall be agreed  
32 upon by: The Washington association of juvenile court administrators,  
33 the juvenile rehabilitation administration of the department of social  
34 and health services, a representative of the division of public  
35 behavioral health and justice policy at the University of Washington,  
36 and the Washington institute for public policy. The list of programs  
37 shall be created not later than July 1, 2003. The group shall provide



1 the list to all superior courts, its own membership, the legislature,  
2 and the governor. The group shall meet annually and revise the list as  
3 appropriate; and

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

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

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

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

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

34 (6) Upon receipt of the assessments, evaluations, and reports the  
35 court shall consider whether the offender and the community will  
36 benefit from use of the mental health disposition alternative. The  
37 court shall consider the victim's opinion whether the offender should  
38 receive the option.

1 (7) If the court determines that the mental health disposition  
2 alternative is appropriate, the court shall impose a standard range  
3 disposition of not more than 65 weeks, suspend execution of the  
4 disposition, and place the offender on community supervision up to one  
5 year and impose one or more other local sanctions. Confinement in a  
6 secure county detention facility, other than county group homes,  
7 inpatient psychiatric treatment facilities, and substance abuse  
8 programs, shall be limited to thirty days. As a condition of a  
9 suspended disposition, the court shall require the offender to  
10 participate in the recommended treatment interventions.

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

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

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

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40 RCW  
25 to read as follows:

26 Any charter county with a population of not more than seventy  
27 thousand shall establish a pilot program to implement the community  
28 commitment disposition alternative contained in this section. The  
29 pilot project shall be limited to five beds.

30 (1) When the offender is subject to a standard range commitment of  
31 15 to 36 weeks and is ineligible for a suspended disposition  
32 alternative, a manifest injustice disposition below the standard range,  
33 special sex offender disposition alternative, chemical dependency  
34 disposition alternative, or mental health disposition alternative, the  
35 court in a county with a pilot program under this section may impose a  
36 community commitment disposition alternative and:

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

1 (b) Confine the youth in a county detention facility for a period  
2 of time not to exceed thirty days; 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. At least fifty percent of  
37 the term of confinement shall be served in secure detention.

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

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

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

13 The Washington association of juvenile court administrators shall  
14 submit an interim report on the pilot program established in this  
15 section to the legislature and appropriate committees by December 31,  
16 2004, and submit a final report to the legislature and the appropriate  
17 committees by June 30, 2005.

18 This section expires July 1, 2005.

19 **Sec. 6.** RCW 13.40.165 and 2002 c 175 s 23 and 2002 c 42 s 1 are  
20 each reenacted and amended to read 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 ((E)) 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.

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

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

36 (10) A disposition under this section is not appealable under RCW  
37 13.40.230.

1        NEW SECTION.    **Sec. 7.** Because model adherence and competent  
2 delivery of research-based intervention programs is critical for  
3 reducing recidivism, the Washington state institute for public policy  
4 shall develop adherence and outcome standards for measuring  
5 effectiveness of treatment programs referred to in this act. The  
6 standards shall be developed and presented to the governor and  
7 legislature no later than January 1, 2004. The standards shall include  
8 methods for measuring competent delivery of interventions as well as  
9 success factors following treatment. The standards shall include, but  
10 not be limited to hiring, training and retaining qualified providers,  
11 managing and overseeing the delivery of treatment services, and  
12 developing quality assurance measures. The department shall utilize  
13 these standards to assess program effectiveness. The courts shall also  
14 utilize these standards in determining their continued use of these  
15 alternatives. The courts shall not continue to use programs that do  
16 not comply with these standards.

17        NEW SECTION.    **Sec. 8.** (1) A task force is created for the purpose  
18 of examining the coordination of information, education services, and  
19 matters of public safety when juvenile offenders are placed into public  
20 schools, following their conviction.

21        (2) The task force shall be chaired by the superintendent of public  
22 instruction and include a representative from the juvenile  
23 rehabilitation administration of the department of social and health  
24 services, the state board of education, associations which represent  
25 school teachers, administrators, and school boards, superior court  
26 judges, the Washington association of juvenile court administrators,  
27 prosecuting attorneys, the governor, attorneys whose practice includes  
28 criminal defense work for juvenile defendants, three groups whose  
29 primary purpose is the delivery of services to families and children,  
30 and law enforcement. The three groups who deliver services shall be  
31 selected by the superintendent of public instruction.

32        (3) The task force shall identify specific policies and statutory,  
33 administrative, and practice processes and barriers that may operate to  
34 impede: (a) The identification and delivery of appropriate and  
35 coordinated services to juvenile offenders who are placed in, or  
36 returned to public schools following conviction of an offense; and (b)  
37 transmittal of information regarding juvenile offenders who are

1 returned to, or placed in, public schools following conviction of an  
2 offense. The task force shall recommend specific statutory and  
3 administrative changes as it finds appropriate to eliminate or reduce  
4 the barriers identified as a result of this subsection (3).

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

8 NEW SECTION. **Sec. 9.** Sections 7 and 8 of this act expire December  
9 31, 2003.

10 NEW SECTION. **Sec. 10.** If specific funding for the purposes of  
11 this act, referencing this act by bill or chapter number, is not  
12 provided by June 30, 2003, in the omnibus appropriations act, this act  
13 is null and void.

Passed by the Senate April 27, 2003.

Passed by the House April 27, 2003.

Approved by the Governor May 20, 2003, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1,  
Engrossed Substitute Senate Bill No. 5903 entitled:

"AN ACT Relating to juvenile offender sentences;"

This bill creates two new alternative juvenile sentences, and a pilot  
project for a third sentencing alternative.

Section 1 prohibits the closure of any Juvenile Rehabilitation  
Administration institution "without specific authorization in an act  
of the legislature." It further prohibits the use of any such  
institution, even if closed by the Legislature, by the Department of  
Corrections or to incarcerate adult offenders. I share these policy  
goals of not closing state institutions without the Legislature's  
concurrence, and not converting juvenile facilities into adult  
prisons. I have not proposed any such closures or conversions.

However, the Legislature has not yet adopted a budget for the next  
biennium, and there is no assurance that its next budget, or some  
future budget, will not make it necessary to consider closures as a  
means of administering programs within available resources. The  
Legislature creates the programs and provides the resources, but the  
executive branch must administer them, and should not be prohibited  
in permanent law from making difficult decisions that may be  
necessary.

For this reason, I have vetoed section 1 of Engrossed Substitute  
Senate Bill No. 5903.

With the exception of section 1, Engrossed Substitute Senate Bill No.  
5903 is approved."