

SENATE BILL 6419

State of Washington

61st Legislature

2010 Regular Session

By Senator Kastama

Read first time 01/14/10. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to juvenile offender sentencing standards for
2 vehicular homicide; reenacting and amending RCW 13.40.0357; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 13.40.0357 and 2008 c 230 s 3 and 2008 c 158 s 1 are
6 each reenacted and amended to read as follows:
7

8 **DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION

9 JUVENILE

CATEGORY FOR

10 DISPOSITION

ATTEMPT, BAILJUMP,

11 OFFENSE

CONSPIRACY, OR

12 CATEGORY DESCRIPTION (RCW CITATION)

SOLICITATION

13
14

15 **Arson and Malicious Mischief**

16 A

Arson 1 (9A.48.020)

B+

1	B	Arson 2 (9A.48.030)	C
2	C	Reckless Burning 1 (9A.48.040)	D
3	D	Reckless Burning 2 (9A.48.050)	E
4	B	Malicious Mischief 1 (9A.48.070)	C
5	C	Malicious Mischief 2 (9A.48.080)	D
6	D	Malicious Mischief 3 (9A.48.090(2) (a) and	
7		(c))	E
8	E	Malicious Mischief 3 (9A.48.090(2)(b))	E
9	E	Tampering with Fire Alarm Apparatus	
10		(9.40.100)	E
11	E	Tampering with Fire Alarm Apparatus with	
12		Intent to Commit Arson (9.40.105)	E
13	A	Possession of Incendiary Device (9.40.120)	B+
14		Assault and Other Crimes Involving	
15		Physical Harm	
16	A	Assault 1 (9A.36.011)	B+
17	B+	Assault 2 (9A.36.021)	C+
18	C+	Assault 3 (9A.36.031)	D+
19	D+	Assault 4 (9A.36.041)	E
20	B+	Drive-By Shooting (9A.36.045)	C+
21	D+	Reckless Endangerment (9A.36.050)	E
22	C+	Promoting Suicide Attempt (9A.36.060)	D+
23	D+	Coercion (9A.36.070)	E
24	C+	Custodial Assault (9A.36.100)	D+
25		Burglary and Trespass	
26	B+	Burglary 1 (9A.52.020)	C+
27	B	Residential Burglary (9A.52.025)	C
28	B	Burglary 2 (9A.52.030)	C
29	D	Burglary Tools (Possession of) (9A.52.060)	E
30	D	Criminal Trespass 1 (9A.52.070)	E
31	E	Criminal Trespass 2 (9A.52.080)	E
32	C	Mineral Trespass (78.44.330)	C
33	C	Vehicle Prowling 1 (9A.52.095)	D
34	D	Vehicle Prowling 2 (9A.52.100)	E
35		Drugs	

1	E	Possession/Consumption of Alcohol	
2		(66.44.270)	E
3	C	Illegally Obtaining Legend Drug	
4		(69.41.020)	D
5	C+	Sale, Delivery, Possession of Legend Drug	
6		with Intent to Sell (69.41.030(2)(a))	D+
7	E	Possession of Legend Drug	
8		(69.41.030(2)(b))	E
9	B+	Violation of Uniform Controlled Substances	
10		Act - Narcotic, Methamphetamine, or	
11		Flunitrazepam Sale (69.50.401(2) (a) or	
12		(b))	B+
13	C	Violation of Uniform Controlled Substances	
14		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
15	E	Possession of Marihuana <40 grams	
16		(69.50.4014)	E
17	C	Fraudulently Obtaining Controlled	
18		Substance (69.50.403)	C
19	C+	Sale of Controlled Substance for Profit	
20		(69.50.410)	C+
21	E	Unlawful Inhalation (9.47A.020)	E
22	B	Violation of Uniform Controlled Substances	
23		Act - Narcotic, Methamphetamine, or	
24		Flunitrazepam Counterfeit Substances	
25		(69.50.4011(2) (a) or (b))	B
26	C	Violation of Uniform Controlled Substances	
27		Act - Nonnarcotic Counterfeit Substances	
28		(69.50.4011(2) (c), (d), or (e))	C
29	C	Violation of Uniform Controlled Substances	
30		Act - Possession of a Controlled Substance	
31		(69.50.4013)	C
32	C	Violation of Uniform Controlled Substances	
33		Act - Possession of a Controlled Substance	
34		(69.50.4012)	C
35		Firearms and Weapons	
36	B	Theft of Firearm (9A.56.300)	C
37	B	Possession of Stolen Firearm (9A.56.310)	C

1	E	Carrying Loaded Pistol Without Permit (9.41.050)	E
2			
3	C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	C
4			
5	D+	Possession of Dangerous Weapon (9.41.250)	E
6			
7	D	Intimidating Another Person by use of Weapon (9.41.270)	E
8			
9		Homicide	
10	A+	Murder 1 (9A.32.030)	A
11	A+	Murder 2 (9A.32.050)	B+
12	B+	Manslaughter 1 (9A.32.060)	C+
13	C+	Manslaughter 2 (9A.32.070)	D+
14	<u>A</u>	<u>Vehicular Homicide While Under the</u>	
15		<u>Influence of Intoxicating Liquor or Any</u>	
16		<u>Drug (46.61.520(1)(a))</u>	<u>B+</u>
17	<u>A-</u>	<u>Vehicular Homicide By the Operation of</u>	
18		<u>Any Vehicle in a Reckless Manner</u>	
19		<u>(46.61.520(1)(b))</u>	<u>B+</u>
20	B+	Vehicular Homicide <u>With Disregard for the</u>	
21		<u>Safety of Others (46.61.520(1)(c))</u>	C+
22		Kidnapping	
23	A	Kidnap 1 (9A.40.020)	B+
24	B+	Kidnap 2 (9A.40.030)	C+
25	C+	Unlawful Imprisonment (9A.40.040)	D+
26		Obstructing Governmental Operation	
27	D	Obstructing a Law Enforcement Officer (9A.76.020)	E
28			
29	E	Resisting Arrest (9A.76.040)	E
30	B	Introducing Contraband 1 (9A.76.140)	C
31	C	Introducing Contraband 2 (9A.76.150)	D
32	E	Introducing Contraband 3 (9A.76.160)	E
33	B+	Intimidating a Public Servant (9A.76.180)	C+
34	B+	Intimidating a Witness (9A.72.110)	C+
35		Public Disturbance	
36	C+	Riot with Weapon (9A.84.010(2)(b))	D+

1	D+	Riot Without Weapon (9A.84.010(2)(a))	E
2	E	Failure to Disperse (9A.84.020)	E
3	E	Disorderly Conduct (9A.84.030)	E
4		Sex Crimes	
5	A	Rape 1 (9A.44.040)	B+
6	A-	Rape 2 (9A.44.050)	B+
7	C+	Rape 3 (9A.44.060)	D+
8	A-	Rape of a Child 1 (9A.44.073)	B+
9	B+	Rape of a Child 2 (9A.44.076)	C+
10	B	Incest 1 (9A.64.020(1))	C
11	C	Incest 2 (9A.64.020(2))	D
12	D+	Indecent Exposure (Victim <14)	
13		(9A.88.010)	E
14	E	Indecent Exposure (Victim 14 or over)	
15		(9A.88.010)	E
16	B+	Promoting Prostitution 1 (9A.88.070)	C+
17	C+	Promoting Prostitution 2 (9A.88.080)	D+
18	E	O & A (Prostitution) (9A.88.030)	E
19	B+	Indecent Liberties (9A.44.100)	C+
20	A-	Child Molestation 1 (9A.44.083)	B+
21	B	Child Molestation 2 (9A.44.086)	C+
22	C	Failure to Register as a Sex Offender	
23		(9A.44.130)	D
24		Theft, Robbery, Extortion, and Forgery	
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 1 and 2 (9A.56.080 and	
29		9A.56.083)	C
30	C	Forgery (9A.60.020)	D
31	A	Robbery 1 (9A.56.200)	B+
32	B+	Robbery 2 (9A.56.210)	C+
33	B+	Extortion 1 (9A.56.120)	C+
34	C+	Extortion 2 (9A.56.130)	D+
35	C	Identity Theft 1 (9.35.020(2))	D
36	D	Identity Theft 2 (9.35.020(3))	E

1	D	Improperly Obtaining Financial Information	
2		(9.35.010)	E
3	B	Possession of a Stolen Vehicle (9A.56.068)	C
4	B	Possession of Stolen Property 1	
5		(9A.56.150)	C
6	C	Possession of Stolen Property 2	
7		(9A.56.160)	D
8	D	Possession of Stolen Property 3	
9		(9A.56.170)	E
10	B	Taking Motor Vehicle Without Permission	
11		1 (9A.56.070)	C
12	C	Taking Motor Vehicle Without Permission	
13		2 (9A.56.075)	D
14	B	Theft of a Motor Vehicle (9A.56.065)	C
15		Motor Vehicle Related Crimes	
16	E	Driving Without a License (46.20.005)	E
17	B+	Hit and Run - Death (46.52.020(4)(a))	C+
18	C	Hit and Run - Injury (46.52.020(4)(b))	D
19	D	Hit and Run-Attended (46.52.020(5))	E
20	E	Hit and Run-Unattended (46.52.010)	E
21	C	Vehicular Assault (46.61.522)	D
22	C	Attempting to Elude Pursuing Police	
23		Vehicle (46.61.024)	D
24	E	Reckless Driving (46.61.500)	E
25	D	Driving While Under the Influence	
26		(46.61.502 and 46.61.504)	E
27	B+	Felony Driving While Under the Influence	
28		(46.61.502(6))	B
29	B+	Felony Physical Control of a Vehicle While	
30		Under the Influence (46.61.504(6))	B
31		Other	
32	B	Animal Cruelty 1 (16.52.205)	C
33	B	Bomb Threat (9.61.160)	C
34	C	Escape 1 ¹ (9A.76.110)	C
35	C	Escape 2 ¹ (9A.76.120)	C
36	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc., Phone Calls	
2		(9.61.230)	E
3	A	Other Offense Equivalent to an Adult Class	
4		A Felony	B+
5	B	Other Offense Equivalent to an Adult Class	
6		B Felony	C
7	C	Other Offense Equivalent to an Adult Class	
8		C Felony	D
9	D	Other Offense Equivalent to an Adult Gross	
10		Misdemeanor	E
11	E	Other Offense Equivalent to an Adult	
12		Misdemeanor	E
13	V	Violation of Order of Restitution,	
14		Community Supervision, or Confinement	
15		(13.40.200) ²	V

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

18 1st escape or attempted escape during 12-month period - 4 weeks
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month
23 period - 12 weeks confinement

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

26 **JUVENILE SENTENCING STANDARDS**

27 This schedule must be used for juvenile offenders. The court may
28 select sentencing option A, B, C, D, or RCW 13.40.167.

29	OPTION A	
30	JUVENILE OFFENDER SENTENCING GRID	
31	STANDARD RANGE	
32	A+	180 WEEKS TO AGE 21 YEARS
33	A	103 WEEKS TO 129 WEEKS
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A-		15-36	52-65	80-100	103-129	
		WEEKS	WEEKS	WEEKS	WEEKS	
EXCEPT						
30-40						
WEEKS FOR						
15-17						
YEAR OLDS						
<hr/>						
Current	B+	15-36	52-65	80-100	103-129	
Offense		WEEKS	WEEKS	WEEKS	WEEKS	
Category	<hr/>					
B	LOCAL				52-65	
	SANCTIONS (LS)		15-36 WEEKS		WEEKS	
C+	LS			15-36 WEEKS		
C	LS				15-36 WEEKS	
		Local Sanctions:				
		0 to 30 Days				
D+	LS	0 to 12 Months Community Supervision				
		0 to 150 Hours Community Restitution				
D	LS	\$0 to \$500 Fine				
E	LS					
<hr/>						
		0	1	2	3	4
						or more

PRIOR ADJUDICATIONS

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

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

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

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

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

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

6 OR

7 **OPTION B**

8 **SUSPENDED DISPOSITION ALTERNATIVE**

9 (1) If the offender is subject to a standard range disposition
10 involving confinement by the department, the court may impose the
11 standard range and suspend the disposition on condition that the
12 offender comply with one or more local sanctions and any educational or
13 treatment requirement. The treatment programs provided to the offender
14 must be either research-based best practice programs as identified by
15 the Washington state institute for public policy or the joint
16 legislative audit and review committee, or for chemical dependency
17 treatment programs or services, they must be evidence-based or
18 research-based best practice programs. For the purposes of this
19 subsection:

20 (a) "Evidence-based" means a program or practice that has had
21 multiple site random controlled trials across heterogeneous populations
22 demonstrating that the program or practice is effective for the
23 population; and

24 (b) "Research-based" means a program or practice that has some
25 research demonstrating effectiveness, but that does not yet meet the
26 standard of evidence-based practices.

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

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

32 (a) Adjudicated of an A+ offense;

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

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

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

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

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

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

15 **OR**

16 **OPTION C**

17 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

22 **OR**

23 **OPTION D**

24 **MANIFEST INJUSTICE**

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

--- END ---