H-1232.1

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**HOUSE BILL 1855**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Orwall, Pettigrew, Goodman, Appleton, and Santos

AN ACT Relating to juvenile offenses involving unlawful possession of a firearm; amending RCW 13.40.0357 and 13.40.210; reenacting and amending RCW 13.40.193; adding a new section to chapter 13.40 RCW; creating new sections; providing an expiration date; and prescribing penalties.

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

NEW SECTION. **Sec.**  Possession of firearms by juveniles is a serious issue facing communities in this state. The legislature intends to provide tools to local governments to help address this issue, including the creation of a grant program to provide support for development of innovative interventions targeting these youth.

While these tools include the use of detention for repeat offenders, the legislature recognizes that local programs that encourage youth participation and limit a youth's contact with the juvenile justice system are necessary to change behavior and prevent firearm violence.

The legislature encourages juvenile courts and prosecutors to use diversion programs, deferred dispositions, and other creative methods in response to juvenile unlawful possession of a firearm offenses.

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

(1) Beginning July 1, 2020, the department shall grant funding for up to three local governments that have demonstrated a need for services for juveniles who are alleged to have committed or who have been adjudicated for unlawful possession of a firearm under RCW 9.41.040(2)(a)(v). Upon certification by the department that a proposal satisfies the application and selection criteria, the department shall distribute grant funds to the local government agency that administers funding for consolidated juvenile services.

(2) By February 1, 2020, the department, in consultation with the Washington association of juvenile court administrators and the state law and justice advisory council, shall establish guidelines for interventions designed for juveniles who are alleged to have committed or who have been adjudicated for unlawful possession of a firearm under RCW 9.41.040(2)(a)(v). The guidelines established under this subsection must:

(a) Include assessment methods to determine services, programs, and intervention strategies most likely to change behavior norms of juveniles who are alleged to have committed or who have been adjudicated for unlawful possession of a firearm under RCW 9.41.040(2)(a)(v);

(b) Provide maximum structured supervision in the community. Programs should use natural surveillance and community guardians such as employers, relatives, teachers, clergy, and community mentors to the greatest extent possible;

(c) Promote good work ethic values and educational skills and competencies necessary for the juvenile to function effectively and positively in the community;

(d) Maximize efficient delivery of treatment services that include intervention components demonstrated to reduce risk factors associated with the commission of juvenile offenses;

(e) Maximize reintegration of the juvenile into the community upon release from confinement;

(f) Be compatible with research that shows which prevention and early intervention strategies work with juveniles;

(g) Be outcome-based in that it describes what outcomes will be achieved or what outcomes have already been achieved;

(h) Include a routine, ongoing performance monitoring component that includes performance benchmarks determined by the department, in consultation with the Washington association of juvenile court administrators and the state law and justice advisory council and the Washington state center for court research;

(i) Include a mentoring component;

(j) Include services or referral to services to help juveniles obtain education and career goals; and

(k) Recognize the diversity of local needs.

(3) Beginning March 1, 2020, local governments may, through their respective agencies that administer funding for consolidated juvenile services, submit proposals to the department that establish interventions designed for juveniles who are alleged to have committed or who have been adjudicated for unlawful possession of a firearm under RCW 9.41.040(2)(a)(v).

(4) The local governments receiving grants under this section shall prioritize serving youth who are alleged to have committed or who have been adjudicated for unlawful possession of a firearm under RCW 9.41.040(2)(a)(v) for the first or second time.

(5) The guidelines and funding established under this section must be separate from those established under RCW 13.40.500 through 13.40.540. The funding established under this section must be separate from the juvenile block grant funding provided in the omnibus operating appropriations act.

NEW SECTION. **Sec.**  (1) The Washington state institute for public policy shall complete a literature review of interventions targeting juveniles adjudicated for or alleged to have committed unlawful possession of a firearm and identify interventions that are evidence-based, research-based, and promising practices. Based on this literature review, the institute shall submit a report to the appropriate committees of the legislature by December 1, 2019.

(2) This section expires July 1, 2020.

**Sec.**  RCW 13.40.0357 and 2018 c 162 s 3 are each amended to read as follows:

|  |
| --- |
| **DESCRIPTION AND OFFENSE CATEGORY** |
| juveniledispositionoffensecategory | description (rcw citation) | juvenile dispositioncategory forattempt, bailjump,conspiracy, orsolicitation |
|  | **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 (9A.48.090) | E |
|  | E | Tampering with Fire Alarm Apparatus (9.40.100) | E |
|  | E | Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105) | E |
|  | A | Possession of Incendiary Device (9.40.120) | B+ |
|  |  | **Assault and Other Crimes Involving 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) committed at age 15 or under | C+ |
|  | A++ | Drive-By Shooting (9A.36.045) committed at age 16 or 17 | A+ |
|  | 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+ |
|  |  | **Burglary and Trespass** |  |
|  | B+ | Burglary 1 (9A.52.020) committed at age 15 or under | C+ |
|  | A- | Burglary 1 (9A.52.020) committed at age 16 or 17 | B+ |
|  | B | Residential Burglary (9A.52.025) | C |
|  | B | Burglary 2 (9A.52.030) | C |
|  | D | Burglary Tools (Possession of) (9A.52.060) | E |
|  | D | Criminal Trespass 1 (9A.52.070) | E |
|  | E | Criminal Trespass 2 (9A.52.080) | E |
|  | C | Mineral Trespass (78.44.330) | C |
|  | C | Vehicle Prowling 1 (9A.52.095) | D |
|  | D | Vehicle Prowling 2 (9A.52.100) | E |
|  |  | **Drugs** |  |
|  | E | Possession/Consumption of Alcohol (66.44.270) | E |
|  | C | Illegally Obtaining Legend Drug (69.41.020) | D |
|  | C+ | Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a)) | D+ |
|  | E | Possession of Legend Drug (69.41.030(2)(b)) | E |
|  | B+ | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b)) | B+ |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c)) | C |
|  | E | Possession of Marihuana <40 grams (69.50.4014) | E |
|  | C | Fraudulently Obtaining Controlled Substance (69.50.403) | C |
|  | C+ | Sale of Controlled Substance for Profit (69.50.410) | C+ |
|  | E | Unlawful Inhalation (9.47A.020) | E |
|  | B | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b)) | B |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e)) | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013) | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012) | C |
|  |  | **Firearms and Weapons** |  |
|  | B | Theft of Firearm (9A.56.300) | C |
|  | B | Possession of Stolen Firearm (9A.56.310) | C |
|  | E | Carrying Loaded Pistol Without Permit (9.41.050) | E |
|  | C | Possession of Firearms by Minor (<18) (9.41.040(2)(a) ((~~(iv)~~)) (v)) (at the time of the offense the juvenile has criminal history that includes less than three prior adjudications for violating any provision of RCW 9.41.040) | C |
|  | B | Possession of Firearms by Minor (<18) (9.41.040(2)(a)(v)) (at the time of the offense the juvenile has criminal history that includes three or more prior adjudications for violating any provision of RCW 9.41.040) | B |
|  | D+ | Possession of Dangerous Weapon (9.41.250) | E |
|  | D | Intimidating Another Person by use of Weapon (9.41.270) | E |
|  |  | **Homicide** |  |
|  | A+ | Murder 1 (9A.32.030) | A |
|  | A+ | Murder 2 (9A.32.050) | B+ |
|  | B+ | Manslaughter 1 (9A.32.060) | C+ |
|  | C+ | Manslaughter 2 (9A.32.070) | D+ |
|  | B+ | Vehicular Homicide (46.61.520) | C+ |
|  |  | **Kidnapping** |  |
|  | A | Kidnap 1 (9A.40.020) | B+ |
|  | B+ | Kidnap 2 (9A.40.030) | C+ |
|  | C+ | Unlawful Imprisonment (9A.40.040) | D+ |
|  |  | **Obstructing Governmental Operation** |  |
|  | D | Obstructing a Law Enforcement Officer (9A.76.020) | E |
|  | E | Resisting Arrest (9A.76.040) | E |
|  | B | Introducing Contraband 1 (9A.76.140) | C |
|  | C | Introducing Contraband 2 (9A.76.150) | D |
|  | E | Introducing Contraband 3 (9A.76.160) | E |
|  | B+ | Intimidating a Public Servant (9A.76.180) | C+ |
|  | B+ | Intimidating a Witness (9A.72.110) | C+ |
|  |  | **Public Disturbance** |  |
|  | C+ | Criminal Mischief with Weapon (9A.84.010(2)(b)) | D+ |
|  | D+ | Criminal Mischief Without Weapon (9A.84.010(2)(a)) | E |
|  | E | Failure to Disperse (9A.84.020) | E |
|  | E | Disorderly Conduct (9A.84.030) | E |
|  |  | **Sex Crimes** |  |
|  | A | Rape 1 (9A.44.040) | B+ |
|  | B++ | Rape 2 (9A.44.050) committed at age 14 or under | B+ |
|  | A- | Rape 2 (9A.44.050) committed at age 15 through age 17 | B+ |
|  | C+ | Rape 3 (9A.44.060) | D+ |
|  | B++ | Rape of a Child 1 (9A.44.073) committed at age 14 or under | B+ |
|  | A- | Rape of a Child 1 (9A.44.073) committed at age 15 | B+ |
|  | B+ | Rape of a Child 2 (9A.44.076) | C+ |
|  | B | Incest 1 (9A.64.020(1)) | C |
|  | C | Incest 2 (9A.64.020(2)) | D |
|  | D+ | Indecent Exposure (Victim <14) (9A.88.010) | E |
|  | E | Indecent Exposure (Victim 14 or over) (9A.88.010) | E |
|  | B+ | Promoting Prostitution 1 (9A.88.070) | C+ |
|  | C+ | Promoting Prostitution 2 (9A.88.080) | D+ |
|  | E | O & A (Prostitution) (9A.88.030) | E |
|  | B+ | Indecent Liberties (9A.44.100) | C+ |
|  | B++ | Child Molestation 1 (9A.44.083) committed at age 14 or under | B+ |
|  | A- | Child Molestation 1 (9A.44.083) committed at age 15 through age 17 | B+ |
|  | B | Child Molestation 2 (9A.44.086) | C+ |
|  | C | Failure to Register as a Sex Offender (9A.44.132) | D |
|  |  | **Theft, Robbery, Extortion, and Forgery** |  |
|  | B | Theft 1 (9A.56.030) | C |
|  | C | Theft 2 (9A.56.040) | D |
|  | D | Theft 3 (9A.56.050) | E |
|  | B | Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083) | C |
|  | C | Forgery (9A.60.020) | D |
|  | A | Robbery 1 (9A.56.200) committed at age 15 or under | B+ |
|  | A++ | Robbery 1 (9A.56.200) committed at age 16 or 17 | A+ |
|  | B+ | Robbery 2 (9A.56.210) | C+ |
|  | B+ | Extortion 1 (9A.56.120) | C+ |
|  | C+ | Extortion 2 (9A.56.130) | D+ |
|  | C | Identity Theft 1 (9.35.020(2)) | D |
|  | D | Identity Theft 2 (9.35.020(3)) | E |
|  | D | Improperly Obtaining Financial Information (9.35.010) | E |
|  | B | Possession of a Stolen Vehicle (9A.56.068) | C |
|  | B | Possession of Stolen Property 1 (9A.56.150) | C |
|  | C | Possession of Stolen Property 2 (9A.56.160) | D |
|  | D | Possession of Stolen Property 3 (9A.56.170) | E |
|  | B | Taking Motor Vehicle Without Permission 1 (9A.56.070) | C |
|  | C | Taking Motor Vehicle Without Permission 2 (9A.56.075) | D |
|  | B | Theft of a Motor Vehicle (9A.56.065) | C |
|  |  | **Motor Vehicle Related Crimes** |  |
|  | E | Driving Without a License (46.20.005) | E |
|  | B+ | Hit and Run - Death (46.52.020(4)(a)) | C+ |
|  | C | Hit and Run - Injury (46.52.020(4)(b)) | D |
|  | D | Hit and Run-Attended (46.52.020(5)) | E |
|  | E | Hit and Run-Unattended (46.52.010) | E |
|  | C | Vehicular Assault (46.61.522) | D |
|  | C | Attempting to Elude Pursuing Police Vehicle (46.61.024) | D |
|  | E | Reckless Driving (46.61.500) | E |
|  | D | Driving While Under the Influence (46.61.502 and 46.61.504) | E |
|  | B+ | Felony Driving While Under the Influence (46.61.502(6)) | B |
|  | B+ | Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6)) | B |
|  |  | **Other** |  |
|  | B | Animal Cruelty 1 (16.52.205) | C |
|  | B | Bomb Threat (9.61.160) | C |
|  | C | Escape 11  (9A.76.110) | C |
|  | C | Escape 21  (9A.76.120) | C |
|  | D | Escape 3 (9A.76.130) | E |
|  | E | Obscene, Harassing, Etc., Phone Calls (9.61.230) | E |
|  | A | Other Offense Equivalent to an Adult Class A Felony | B+ |
|  | B | Other Offense Equivalent to an Adult Class B Felony | C |
|  | C | Other Offense Equivalent to an Adult Class C Felony | D |
|  | D | Other Offense Equivalent to an Adult Gross Misdemeanor | E |
|  | E | Other Offense Equivalent to an Adult Misdemeanor | E |
|  | V | Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)2  | V |

1Escape 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 - 28 days 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

2If 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, or D.

|  |  |  |
| --- | --- | --- |
|  |  | OPTION AJUVENILE OFFENDER SENTENCING GRIDSTANDARD RANGE |
|  | A++ | 129 to 260 weeks for all category A++ offenses |
|  | A+ | 180 weeks to age 21 for all category A+ offenses |
|  | A | 103-129 weeks for all category A offenses |
|  | A- | 30-40 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
|  | B++ | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
| CURRENT | B+ | 15-36 weeks | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks |
| OFFENSE | B | LS | LS | 15-36 weeks | 15-36 weeks | 52-65 weeks |
| CATEGORY | C+ | LS | LS | LS | 15-36 weeks | 15-36 weeks |
|  | C | LS | LS | LS | LS | 15-36 weeks |
|  | D+ | LS | LS | LS | LS | LS |
|  | D | LS | LS | LS | LS | LS |
|  | E | LS | LS | LS | LS | LS |
| PRIOR | 0 | 1 | 2 | 3 | 4 or more |
| ADJUDICATIONS |  |  |  |

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

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

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

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

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

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

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

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

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

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

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

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

(a) Is adjudicated of an A+ or A++ offense;

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

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

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

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

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

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, 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.**  RCW 13.40.193 and 2018 c 162 s 5, 2018 c 22 s 7, and 2018 c 7 s 9 are each reenacted and amended to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040(2)(a)((~~(iv)~~)) (v), the court shall impose a ((~~minimum~~)) disposition that includes a minimum of ten days of confinement and six months of community supervision. If the offender's standard range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition, and the six months of community supervision shall not be ordered. The offender shall not be released until the offender has served a minimum of ten days in confinement. The minimums under this subsection shall not apply to dispositions under RCW 13.40.127.

(2)(a) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040, the disposition must include a requirement that the respondent participate in a qualifying program as described in (b) of this subsection, when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(b) For purposes of this section, "qualifying program" means an aggression replacement training program, a functional family therapy program, or another program applicable to the juvenile firearm offender population that has been identified as evidence-based or research-based and cost-beneficial in the current list prepared at the direction of the legislature by the Washington state institute for public policy.

(3) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. If the offender or an accomplice was armed with a firearm when the offender committed any felony other than possession of a machine gun or bump-fire stock, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun or bump-fire stock in a felony, the following periods of total confinement must be added to the sentence: (a) Except for (b) of this subsection, for a class A felony, six months; for a class B felony, four months; and for a class C felony, two months; (b) for any violent offense as defined in RCW 9.94A.030, committed by a respondent who is sixteen or seventeen years old at the time of the offense, a period of twelve months. The additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357.

(4)(a) If the court finds that the respondent who is sixteen or seventeen years old and committed the offense of robbery in the first degree, drive-by shooting, rape of a child in the first degree, burglary in the first degree, or any violent offense as defined in RCW 9.94A.030 and was armed with a firearm, and the court finds that the respondent's participation was related to membership in a criminal street gang or advancing the benefit, aggrandizement, gain, profit, or other advantage for a criminal street gang, a period of three months total confinement must be added to the sentence. The additional time must be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357 and must be served consecutively with any other sentencing enhancement.

(b) For the purposes of this section, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(5) When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(6) Any term of confinement ordered pursuant to this section shall run consecutively to any term of confinement imposed in the same disposition for other offenses.

**Sec.**  RCW 13.40.210 and 2017 3rd sp.s. c 6 s 609 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section and for offenders who receive a juvenile residential commitment sentence for theft of a motor vehicle, possession of a stolen motor vehicle, unlawful possession of a firearm in violation of RCW 9.41.040(2)(a)(v), or taking a motor vehicle without permission 1. A juvenile adjudicated for unlawful possession of a firearm, possession of a stolen firearm, theft of a firearm, or drive-by shooting may participate in aggression replacement training, functional family therapy, or functional family parole aftercare if the juvenile meets eligibility requirements for these services. The decision to place an offender in an evidence-based parole program shall be based on an assessment by the department of the offender's risk for reoffending upon release and an assessment of the ongoing treatment needs of the juvenile. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) and (vi) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.128 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of parole conditions during the parole period shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

(c) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of children, youth, and families shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

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